

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 20

HAGADONE PRINTING COMPANY, INC.<sup>1</sup>

Employer

and

Case 37-RC-4113

GRAPHIC COMMUNICATIONS UNION  
LOCAL 501-M, GRAPHIC COMMUNICATIONS  
CONFERENCE OF THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The parties stipulated, and I find, that the Employer is a Hawaii corporation with a place of business in Honolulu, Hawaii, where it is engaged in the printing and bindery business. The parties further stipulated, and I find, that during the

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<sup>1</sup> The Employer's name is in accord with the parties' stipulation.

12-month period ending June 30, 2005, the Employer, in conducting its business operations, derived gross revenues in excess of \$500,000, and purchased goods and materials valued in excess of \$50,000 directly from points outside the State of Hawaii. Based on the parties' stipulation to such facts, I find that that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction in this matter.

3. The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of the Act.

4. The parties stipulated, and I find, that there is no contract bar to this proceeding.

5. By its amended petition, the Petitioner seeks to represent a craft unit comprised of all lithographic production employees, including pre-press and press employees employed by the Employer at its Honolulu, Hawaii facility; and excluding bindery employees, drivers, mailers, shipping employees, sales executives, customer service representatives, clerical employees, all other employees, managerial employees, guards and supervisors as defined in the Act. The petitioned-for unit consists of approximately 43 employees.

The Employer contends that in order for the unit to be appropriate, it must include customer service representatives (CSRs), bindery employees, shipping department employees and mail room employees. The unit urged by the Employer consists of approximately 90 employees. For the reasons discussed below, I find that the petitioned-for unit is an appropriate unit.

The Employer also contends that the unit must exclude pre-press shift foremen, lead sheet fed press operators, lead web press operators, the bindery foremen and the mail room lead as statutory supervisors. The Petitioner takes the opposite view with regard to those alleged to be supervisors in the pre-press and press departments. With regard to the bindery foremen and the mail room lead, the Petitioner does not seek to represent employees in the bindery and mailing departments. As I am finding that bindery and mailing department employees should be excluded from the unit, I need not address the supervisory status of employees in those departments. For the reasons discussed below, I find that the pre-press shift foremen, lead sheet fed press operators, and lead web press operators are not statutory supervisors, but are employees within the meaning of the Act, and I shall include them in the unit.

Stipulations. The parties stipulated, and I find, that the individuals in the following positions should be excluded from the unit as statutory supervisors: President Edwin Hudelist, Plant Manager Chris DeBone, Assistant Plant Manager Donald D'Amato, Pre-press Manager Burt Kondo, Web Press Manager Andre Kimo Dolor, Sheet Fed Press Manager John Watson, Director of Mailing Michelle Bartmann and Shipping Manager Van Benigo.

The parties also stipulated, and I find, that the individuals in following positions should be excluded from the unit as managerial employees: Scheduler Ellen Miller; Production Planners Diane Okada, David Nishida and Margie Schnack; and Marketing Trainer Brian Trusler. The parties also agreed, and I find, that estimators and sales executives should be excluded from the unit based on their lack of a community of interest with employees in the petitioned-for unit. In this regard, the record discloses that

the estimators and sales executives are not skilled lithographers, apprentices or helpers.

The estimators and sales executives work on the second floor in the administrative area of the Employer's facility and not in the first-floor production areas; they do not engage in any type of production work; are separately supervised; and are salaried and/or receive commissions rather than being hourly paid as are employees in the petitioned-for unit.

Finally, the parties stipulated, and I find, that the following temporary employees may vote subject to challenge: Devin Chow, Charles C. Anthony, Brandon M. Rangamar, and Jarrob Remmers. The Petitioner amended its petition to exclude all other temporary employees from the unit. The Employer does not dispute this exclusion.

Facts. The Employer has been in business since 1995. It operates a printing and bindery business in Honolulu where it produces commercial publications and other printed products, including magazines, brochures, business cards, letterheads and other printed materials. The Employer's operation includes the following departments: purchasing, planning, pre-press, press, bindery, mailing and shipping. The Employer also has office staff, customer service representatives (CSRs), sales executives and maintenance employees.

History of the Employer's Operation & Collective Bargaining. In 1995, the Employer purchased another publishing company in Honolulu called Tongg Publishing Co., Inc. (Tongg), which had recently merged with Oahu Bindery, Inc. (Oahu Bindery).

The record reflects that separate bargaining units were certified at Tongg beginning with the press employees in 1961; followed by the pre-press employees in 1963;<sup>2</sup> and bindery employees and truck drivers in 1964.<sup>3</sup> For Oahu Bindery, the record includes a certification, dated August 15, 1988, for Oahu Bindery and Graphic Communications International Union, Local 501, AFL-CIO, a predecessor of the Petitioner, in a unit of production and maintenance employees that did not include pre-press and press employees.<sup>4</sup> Lastly, for Oahu Bindery, the record contains a 1992 certification of the results of an election stating that a majority of ballots had not been cast for the Petitioner in a unit which did not include pre-press and press employees.<sup>5</sup>

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<sup>2</sup> The record includes the a certification at Tongg, dated May 22, 1963, in Case 37-RC-951, for the Amalgamated Lithographers of America, Local No. 62, Independent (herein called Local 62), a predecessor of the Petitioner, in the following unit:

All lithographic production employees in the camera, plate making, and stripping departments located at 1320 Rycroft Street, Honolulu, Hawaii; excluding all office clerical employees, professional employees, guards and/or watchmen and supervisors as defined in the Act, and all other employees.

<sup>3</sup> The record includes a certification at Tongg, dated May 8, 1964, for Local 62 in Case 37-RC-1051, in the following unit:

All bindery production employees and truck drivers; excluding all lithographic production employees, office clerical employees, guards and/or watchmen, professional employees and supervisors as defined in the Act, and all other employees.

<sup>4</sup> The unit description covered by that certification is as follows:

All full-time and regular part-time production and maintenance employees employed by the Employer at its Honolulu, Hawaii facility; excluding sales employees, office clerical employees, guards and supervisors as defined in the Act.

<sup>5</sup> The unit covered by the certification in Case 37-RC-3116, dated April 15, 1992, is as follows:

All full-time and part-time employees of the employer employed in the pre-sort department, mailing department, stitching department, folding department, perfect bind department, hand bind department, cutting department, shipping and receiving department/truck drivers; excluding all managerial, supervisors, guards, and/or watchmen, as defined by the Act, confidential employees and all other employees.

For an undisclosed period of time after the certifications in the 1960s at Tongg, there were a series of collective-bargaining agreements for each separate unit (i.e., pre-press, press and bindery). Then, commencing on an unknown date, both units were included under the terms of a single collective-bargaining agreement. The record includes a collective-bargaining agreement between Tongg and the Petitioner effective for the period July 1, 1992 to September 7, 1995, which by the terms of its jurisdictional clause, covered pre-press, press and bindery employees.<sup>6</sup>

At the time the Employer acquired Tongg and Oahu Bindery in 1995, numerous unfair labor practice charges and civil actions were filed, which were thereafter settled. Under the terms of one of the non-Board settlements, the parties agreed to hold an election in 1996 in a unit comprised only of press and pre-press press employees. The Petitioner lost that election. There is no evidence of any collective-bargaining history at the Employer's facility since 1996, and no party contends there is a contract bar to the instant petition.

Pattern of Bargaining. The record reflects that the Petitioner represents other units of employees in the State of Hawaii in which press operators and bindery employees are combined in the same unit in situations where the two groups work side-

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<sup>6</sup> The jurisdictional clause of this collective-bargaining agreement reads:

All employees (including working foremen and superintendents) performing any of the following production work shall, without limitation, be covered by the terms of this Agreement: all production work, processes, operations and products directly related to lithography, offset (including dry or wet), photoengraving, letterpress, typesetting, electronic or computer-based imaging, bookbinding, and finishing including any technological or other change, evolution of or substitution for any work, process or operation now or hereinafter utilized in any of the methods described above.

by-side. However, the Petitioner does not represent mailing employees. These employees are represented by a different union in Hawaii.

The Employer's Facility. All of the Employer's operations are housed in a single building. The purchasing, planning, pre-press, press, bindery, shipping and mailing departments are housed on the first floor in the warehouse area, which has storage areas for web press rolls and other equipment. Departmental managers also have their offices on the first floor. A total of about 110 individuals work in these departments. In addition, the first floor has a lobby/reception area, a lunchroom and restroom facilities. On the second floor is the administration area, where sales executives, estimators and CSRs have their offices.

Managerial Hierarchy. Employer President Hudelist is the highest ranking officer at the Employer's facility. Reporting directly to Hudelist are Plant Manager DeBone, Director of Mailing Bartmann, senior sales executives, sales executives and CSRs. Reporting directly to Plant Manager DeBone are Assistant Plant Manager D'Amato, Pre-press Manager Kondo, Web Press Manager Dolor, Sheet Fed Press Manager Watson, the scheduler and the production planners.<sup>7</sup> Reporting to Assistant Plant Manager D'Amato are the Bindery Shift Supervisors Tony Vendiola and Ken Tanaka and Shipping Manager Van Benigno.

Plant Manager DeBone has overall responsibility for the Employer's production process, including the pre-press, press, bindery, mailing and shipping departments. However, each of the departmental managers has independent authority to hire and

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<sup>7</sup> As indicated above, the parties stipulated, and I find, that the scheduler and production planners should be excluded from the unit as managerial employees.

discipline employees in their respective departments. Transfers between departments are generally handled by departmental managers and the plant manager. The Employer does not have a human resources manager. Its human resources clerk handles only paperwork (e.g., payroll, personnel files and medical records, etc.), and not the actual decision-making on personnel matters. The Employer holds weekly management meetings conducted by President Hudelist that are attended by the departmental managers, the controller and the publications coordinator. Production meetings are held daily and are attended by the president, the scheduler, production managers, CSRs, and a pre-press employee (an imaging output operator) who provides updates on the proofing status of pending jobs. At the production meetings, the scheduling of jobs and other production matters are discussed. The prioritization of work and the scheduling of jobs are handled by Scheduler Ellen Miller with input from the department managers. The schedule is updated three times a day and communicated to each department.

Common Terms and Conditions of Employment. All of the employees at issue in this proceeding are subject to the same personnel policies, receive the same employee handbook, and receive the same basic fringe benefit package. All use a computerized time clock; attend the same company-wide quarterly meetings; are invited to company picnics, barbecues, and the annual Oktoberfest celebration; and use the same lunchroom, restroom and shower room facilities. To the extent employees wear uniforms, such uniforms are generally similar, consisting of blue pants and optional company T-shirts. In the sheet fed press department which is air-conditioned, the lead press operators generally wear collared shirts with their names on them, while the other employees wear T-shirts. In the web press department which is not air conditioned, the lead press



operators wear T-shirts like the other employees in that department. No uniforms are required in the pre-press department, however, employees in that department must wear covered shoes.

The record reflects that the Employer uses a computerized system to track the progress of every job that it handles. Employees in all departments log onto the computer system to electronically record the work they perform on a job, including their time spent, the materials used, and the product(s) produced.

Customer Orders and the Intake of Jobs. Sales executives solicit customer orders and generate requests for job estimates. These requests are given to the estimators who consult with the department managers to determine the time and cost of producing a job and provide the sales executive with a formal letter citing the terms of the contract for the sales executive to give to the customer. If the customer agrees to the contract terms, the sales executive, sometimes with the assistance of a CSR, creates a job ticket. The job ticket is given to the production planners, who are a group of managers responsible for ordering paper and other supplies for the job; creating the necessary instructions for the pre-press department; and refining the job ticket by including the specific duties for each department. The job ticket follows the job throughout the shop, describing the work to be done by each department. The sales executives, CSRs and production planners are the only persons allowed to electronically modify the job ticket; all other employees may electronically access the job ticket only for informational purposes. A hard-copy of the job ticket stays with the job file as it moves through the various departments.

The CSRs. As noted above, contrary to the Petitioner, the Employer asserts that CSRs must be included in the unit.

There are six CSRs. Four are printing CSRs who, like the sales executives, report directly to President Hudelist. The other two are mailing CSRs who report to Mailing Director Bartmann. The printing CSRs provide support to the sales executives and act as liaisons among customers, sales executives and the various production departments. The mailing CSRs perform a similar liaison function with regard to the mailing department. Both types of CSRs work closely on teams with individual sales executives in servicing customers. President Hudelist testified that two CSRs had been promoted to the position of sales executive. There is no evidence that any CSR has become a pre-press or press operator.

The printing CSRs spend about 60% of their work time in the production area, visiting the floor between 15 and 30 times a day to check on the progress of jobs and perform preparatory functions and other tasks to ensure the timely processing of customer orders. About 30% of their work time is spent at their desks in the administration area on the second floor, preparing job tickets, reviewing estimates and preparing customer files for pre-press work. The remaining 10% of their work time is spent working with the sales executives and customers, and making outside visits to customers. The printing CSRs take over the jobs brought in by the sales executives. They assist in finishing the job ticket; ensuring that client files are correct; and performing preplanning/preparatory (“preflight”) functions before pre-press imaging work is done on a project. When production work begins on a job, the printing CSRs ensure that the work is performed in a timely manner to customer satisfaction. Employer President Hudelist testified that in hiring printing CSRs, he seeks candidates knowledgeable about the pre-press process

who have good customer relations skills, because pre-press work is the most complicated part of the printing process and the part that creates the most problems with customers.<sup>8</sup>

As indicated above, a small portion of the printing CSRs' work (approximately 10%) involves preparation ("preflight") work on new jobs that have entered the shop. This involves tasks that overlap with work regularly performed by pre-press employees, such as opening, organizing and copying customers' electronic files onto the pre-press computers; correcting the fonts in those files; ensuring that the files are the right size and color; converting the files into a PDF format; and giving files electronic job numbers. Although the printing CSRs usually perform this work at their own computers on the second floor, they also, at times, use computers in the pre-press area to perform this work. However, the printing CSRs do not perform the actual imaging work of the pre-press operators, which involves such tasks as trapping, marking up files and making plates. Only pre-press operators and platemakers perform these tasks.

The printing CSRs also facilitate customer requests for modifications in their jobs and stamp proofs as final when they are sent to the conventional pre-press area to be plated. Printing CSRs enter the conventional pre-press area to perform other tasks to speed the job along such as putting proofs together. Thus, if a proof needs to be delivered to a customer for approval, the printing CSRs will sometimes cut the proofs,

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<sup>8</sup> The job description for the CSRs states that they are responsible for ensuring that each job is produced efficiently and to the customer's specification and for providing support to the sales executives. In the job description, the duties listed for the position include logging in requests for estimates; initiating job tickets and job jackets; finalizing scheduling with production planners and schedulers; tracking the job through production; communicating any problems and changes to production personnel, sales executives and customers; working with customers to inspect proofs; setting up press checks where customers observe their job being plated and/or printed; closing the jobs; sending materials to the customer; and ensuring the proper storage of materials retained by the Employer. The CSRs also substitute for absent sales executives.

attach tags, give them to the sales executive for delivery to the customer, and return the proofs to the pre-press department after the customer has approved them. Occasionally, printing CSRs also enter the press rooms to do “press checks” with a customer. This involves allowing the customer to observe his or her job being run on the press.

With regard to the mailing CSRs, Mailing Department Director Michelle Bartmann testified that about 60% of their work time is spent at their desks on the second floor. They spend only about 30% of their work time in other areas of the plant. The mailing CSRs also work closely with the printing CSRs/sales executive teams as well as with Mailing Director Bartmann to ensure that customers’ mailing needs are met.

The printing and mailing CSRs work Monday through Friday, from 8:30 a.m. to 4 or 5 p.m. All of the CSRs have desks in the administration area on the second floor of the Employer’s facility. They are all salaried and paid between \$34,000 and \$40,000 a year, except for one mailing CSR, who earns about \$25,000 a year. The printing CSRs also receive a small percentage of the commissions earned by the sales executives, with whom they work closely on teams.<sup>9</sup> The mailing CSRs also receive a small portion of the commission earned by Director of Mailing Bartmann.

The Pre-Press Department. No party disputes the inclusion in the unit of 12 of the 15 individuals employed in the pre-press department (i.e., five pre-press operators/imagists, five plate makers and two platemaker/proofers). However, contrary

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<sup>9</sup> CSRs receive .015% of the gross sales revenue generated by the sales executives, which is paid to them by the sales executives and not by the Employer. Sales executives are paid solely on a commission basis after their first year of work, and they receive commissions ranging from 3 ½ to 6% of their gross sales.

to the Petitioner, the Employer contends that the three pre-press shift foremen are statutory supervisors who must be excluded from the unit.

The pre-press department is managed by Pre-Press Manager Bruce Kondo, who has independent authority to hire, discipline and assign work for his department. It operates 24 hours a day, five and sometimes six days a week, on three shifts, which run from 6 a.m. to 2 p.m.; from 2 p.m. to 10 p.m.; and from 10 p.m. to 6 a.m.

Pre-Press-Electronic/Digital Area. Pre-press employees work in two processing areas: electronic/digital and conventional. Electronic/digital pre-press employees (pre-press operators/imagists) intake customer files, check them for missing graphics, and ensure that they are the correct size. Using Macintosh computers, they use various program applications to manipulate and organize customer files, which are typically in multiple colors that must be separated into different color units so they can be printed on the Employer's presses. The presses have four to six separate cylinders each of which prints one color at a time. Proper coloration is produced by printing each color in appropriate screen percentage overlaps on each page. Pre-press employees convert the computer files in processes called ripping and trapping. Ripping refers to the conversion of files from one type of digital format to another, called a raster format, which separates the graphics for the printing process. Trapping is the process used to compensate for misregistration/misalignments in the printing process.

Pre-press operators/imagists use color scanners to add press marks, bindery marks and color bars, which are basically quality control devices for the Employer's production

machines.<sup>10</sup> According to Plant Manager DeBone, pre-press operators must be knowledgeable in all aspects of the scanning process, including maximum densities, color removal, color correction, etc. For this position, the Employer seeks candidates who have experience in the industry and a strong computer background. The job description for this position indicates that the operator must be knowledgeable in digital pre-press applications, Quark Express, Adobe In-Design, Adobe PageMaker, Adobe Illustrator, Adobe Photoshop, Macromedia, Freehand, etc.

At the end of the electronic/imaging process, other pre-press operators/imagists create proofs by taking digital files and plotting them on inkjet proofing devices which simulate what the job will look like before it is run on the press. The customer must approve this digital proof before it proceeds to the pre-press plating room where the actual printing plates are made.

Pre-Press-Plating Area. As indicated above, the parties do not dispute the inclusion of the six plate makers and two proofers in the unit. The pre-press plating area is located in a room adjacent to the pre-press electronic/imaging area. This room contains proofing devices and the CTP (“computer to plate”) device, which uses a laser to apply an image onto lithographic aluminum printing plates. Four plates are typically created in the plating room for each job; one plate for each of the main colors (i.e., sienna, magenta, yellow and black) that will be used when the job is printed. In the printing process, ink is transferred from the printing plate to a cylinder, from the cylinder to a rubber blanket, and from the rubber blanket onto the paper.

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<sup>10</sup> For example, bindery marks are guides to show where a job should be trimmed.

A job commences in the pre-press plate making department when the shift foreman receives a job jacket containing the job ticket, a pre-press request, and the electronic/imaging proofs for the job.<sup>11</sup> The plate making process is entirely automated and takes about four minutes per job. A plate maker opens up the job on the computer. In the job is a plate output tab with each press indicated and each color for each plate identified. The plate maker determines the line screen/resolution of the plate. Once the plate maker selects the plates to be imaged, the files are sent electronically to the CTP device, the plates are automatically loaded onto an imaging drum, and a thermal laser burns the images onto the plate. The plate is then ejected and processed through a chemical bath that brings out the exposed image on the plate and washes off the unexposed portion. The plate is then automatically stacked for inspection by the plate maker.

The plate maker then brings the plates to a viewing station/light table and checks the plates to ensure quality, including the line screen, trapping, correct exposure, content, and press marks. After inspecting the plate, the plate maker approves it by initialing the plate, and takes it to the plate punch device, which is located in a smaller room inside the conventional press department. The plate punch device is used to put register holes into the plate so that it will line up on each cylinder when placed on the printing press. Lastly, the plates are hung up and the job jacket and job tickets are put into a nearby staging bin to await transfer to the press department.

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<sup>11</sup> Job jackets are prioritized in the order they are to be run on the press.

The record contains advertising publications for the Employer's operations, including one stating that the Employer's pre-press department offers, "state of the art equipment and experienced skilled operators." The record reflects that the Employer seeks persons with a high level of experience when it hires pre-press operators. Thus, as indicated above, applicants for these positions must: know all aspects of the scanning process; have experience in the industry; have a strong computer background; and know a number of specific digital pre-press applications, as listed above. Each of the Employer's three pre-press shift foremen, who are all working foremen, have worked in the printing industry for over 30 years. Second Shift Pre-press Foreman Mellem went through a two-year graphics program. There is only one example of an employee who permanently transferred into the pre-press department from another department, and that occurred two years before the hearing when Bindery Worker Noel Gonzales transferred to become a proofer in the pre-press department. The record contains only limited evidence of employees from other departments temporarily transferring into the pre-press department to perform pre-press work. This includes the limited preflight work performed by the printing CSRs described above, and the plate making work performed by press employees, particularly on the weekends, when pre-press employees are unavailable and a plate needs to be remade because of a defect or for other reasons.

Pre-press employees are hourly paid and work on the three staggered shifts described above. Their pay rates range from \$10 to \$20 an hour.<sup>12</sup>

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<sup>12</sup> The record shows the following hourly pay ranges for the pre-press employees: imagist \$10 to \$20.04; proofer, \$8.50 to \$13.24; and plate maker, \$15 to \$20.18. The pre-press shift foremen are paid \$19 to \$20 an hour, including an extra dollar an hour for their duties as shift foremen.



The Press Department. The press department has three sheet fed presses and one web press. The sheet fed presses print jobs on pre-cut sheets of paper that are fed into the presses sheet-by-sheet and after being printed, are dropped off the presses sheet-by-sheet. In the web press operation, rolls of paper are fed into a single web press that can be sheeted or folded as they come off the press. The sheet fed press is often used for fancier publications; the web press produces the largest volume of printed products. The sheet fed press room and web press room are both located in the main floor/warehouse area of the Employer's facility. They are separated by a door.

The parties agree to the inclusion of approximately 15 press department employees in the unit, including six who work on the sheet fed presses and nine who work on the web press. The parties dispute the inclusion in the unit of ten lead operators, seven of whom work on the sheet fed presses and three of whom work on the web press. The Employer contends that these individuals must be excluded from the unit as statutory supervisors. The Petitioner takes the contrary view.

The sheet fed presses are managed by Sheet Fed Press Manager Watson. The web press is managed by Web Press Manager Dolor. Both Watson and Dolor have independent authority to handle personnel matters for their respective press operations.

Like the pre-press operation, the sheet fed and web presses operate 24 hours a day, in contrast to the Employer's other operations (i.e., bindery, mailing and shipping). Sheet fed and web press employees work on three shifts. The web press operates seven days a week and the sheet fed presses operate five to six days a week.

The Sheet Fed Press Operation. Under Sheet Fed Press Manager Watson,<sup>13</sup> are seven lead sheet fed press operators,<sup>14</sup> whose supervisory status is disputed, and six other employees, including two second press operators,<sup>15</sup> three feeders<sup>16</sup> and one recently hired floor helper.<sup>17</sup> As indicated above, no party disputes that the unit should include the second press operators, feeders and floor helper.

The sheet fed presses operate 24 hours a day, Monday through Friday, and on some weekends. The shifts are from 6:30 a.m. to 2:30 p.m.; 2:30 p.m. to 10:30 p.m.; and 10:30 p.m. to 6:30 a.m. Sheet Fed Press Manager Watson works Monday through Friday from 9 a.m. to 6 p.m. His work hours overlap with those of employees on the first and second shifts. Watson is on call at all other times, primarily to deal with any major technical issues that arise.

The Employer has three sheet fed presses, the Komori 640, 440 and 420, which are offset lithographic printing presses used primarily for commercial work. The Komori 640 is the Employer's largest and fastest sheet fed printing press. It operates continuously during all three shifts. The hours of operation for the other two presses vary depending on the work load. Only one of the two smaller Komori presses operates during the third shift.

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<sup>13</sup> Watson had been the sheet fed manager for less than a year at the time of the hearing.

<sup>14</sup> Brian Makio, Ben Hauger, Steven Costa, John Whitten, Kent Igarashi, Joe Cambra, and Winston Ferido.

<sup>15</sup> Jarren Alfeche and Jantzen Damas.

<sup>16</sup> Shawn Javier, General Anderson, and Jason Garcia.

<sup>17</sup> Daniel Keaulii.

Generally, the sheet fed press operation begins with a feeder or floor helper bringing a job jacket, job ticket and plates for a job from the pre-press department into the press department. The sheet fed press picks up sheets of pre-cut paper and prints them through each cylinder of the press's printing units, each of which puts down a specific color of ink. At the end of this process, the paper is heated with ink dryers and delivered and stacked at the opposite end of the printing press.

According to Sheet Fed Press Manager Watson, the maximum crew size for each press in operation is two persons unless a job is "really tough." Each crew is headed by a lead press operator and the crews rotate shifts each month. At the time of the hearing, on the first shift, Lead Sheet Fed Press Operator Ben Hauger and Second Press Operator Jarren Alfeche were assigned to run the Komori 640; Lead Sheet Fed Press Operator Kent Igarishi and Feeder Jason Garcia were running the Komori 440; and Lead Sheet Fed Press Operator Winston Ferido was running the Komori 420. No second press operator or feeder is normally assigned to the 420. A floor helper, Daniel Keaulii, who was hired a few weeks before the hearing, is also assigned to the first shift.

On the second shift, assigned to the Komori 640 are Lead Sheet Fed Press Operator Brian Makio and Feeder Shawn Javier; assigned to the Komori 440 are Lead Sheet Fed Press Operator John Whitten and Feeder General Anderson; and assigned to the Komori 420 is Lead Sheet Fed Press Operator Joe Cambra.

On the third shift, Lead Sheet Fed Press Operator Steven Costa and Second Press Operator Jantzen Damas operate the 640. However, Watson testified that he was in the process of transferring Jantzen Damas to the second shift to serve as an apprentice with

Joe Cambria on the Komori 420. At the time of the hearing, the Employer was not operating the Komori 440 or 420 on the third shift.

In addition to the three printing presses, the sheet fed department also contains two guillotine papercutters, which are operated by two bindery department employees (papercutters) who work in the sheet fed department during most of the first and second shifts. The sheet fed process often requires paper to be cut both before and after press runs. Sheet fed employees also occasionally use the paper cutters during the third shift when no paper cutters from the bindery department are available because that department does not operate during the third shift. The sheet fed press room also has an ink plant, which is run by a contract worker who mixes the ink for the Employer's jobs. Sheet fed employees use various tools in their work, including pliers, grease guns, screw drivers, etc., which are shared with employees in other departments.

The Lead Sheet Fed Press Operators. As indicated above, the lead press operators who run the Komori 640 are Benjamin Hauger, Brian Makio and Steven Costa; John Whitten and Kent Igarashi run the Komori 440; and at the time of the hearing, Joe Cambra and Winston Ferido were running the Komori 420. The lead press operators are very experienced working lead persons who are in charge of running their respective presses on their shifts. Their job duties are discussed more fully below in the section dealing with the issue of their supervisory status.

The Second Press Operators. The two second press operators assist the lead press operators in running the presses. According to the testimony of Sheet Fed Press Manager Watson, the second press operators are "above" the feeders because of their "knowledge and skill," but they are generally less experienced than the lead press operators. Thus, as

the time of the hearing, Second Press Operator Jantzen was commencing a two-year apprenticeship training on the Komori 420 with Lead Press Operator Joe Cambra.

The Sheet Fed Feeders. Three sheet fed feeders work on the sheet fed presses. They report to Manager Watson. Generally, the feeders assist the lead press operator in the manual and machine tasks involved in the set up, maintenance and operation of the printing presses. Their job duties include helping to coordinate the production of jobs; performing preventative maintenance on the press, such as lubricating the press, replacing small parts, and washing the press; cleaning and making minor adjustments to rollers and other small moving parts on the press; maintaining a clean and orderly work area; pre-loading and loading the feeder with pre-cut paper; winding and turning stock; managing the ink units on the printing press to ensure that each unit has enough ink; and performing other tasks as requested by the press operators. Plant Manager DeBone testified that there is a hierarchy of starting out as a floor helper in sheetfed, and working up through the ranks to lead operator. According to DeBone, “[t]hroughout each of those steps, you . . . learn . . . how jobs are run through the shop.” Similarly, Lead Press Operator Hauger, testified, “You work your way up . . . .”

The Floor Helper. The record reflects that at the time of the hearing, there was only one floor helper, Daniel Keaulii. He works only during the first shift in the sheet fed department and is supervised by the pressroom manager. The floor helper job description states that the person in this position “assists the press operator in the manual and machine tasks involved in the setup, maintenance and operation of the press.” The floor helper assists in large jobs, prepares make-ready sheets and inks for each press, keeps paper fed into the press, prepares skids, stacks finished paper on pallets and moves the

pallets into designated areas, performs general cleaning and maintenance work in the press area, and performs other tasks as requested by the press operator. Keeaulii is given a list of jobs by the scheduler but is directed primarily by the manager. All of the other employees on the first shift can also give him instructions. The record indicates that Keeaulii sweeps the floor, unstacks the skids, and offloads jobs as they are completed. As discussed below, because the floor helper is present only on the first shift, bindery employees sometimes help out in the sheet fed press room during the second shift by stacking materials from jobs. No bindery employees are available to assist on the third shift because the bindery department does not operate a third shift.

Pay Rates. Sheet Fed Press Manager Watson is paid a salary of about \$40,000 a plus bonuses. The lead sheet fed press operators earn varying hourly rates depending on the press they operate; the rate for the operators of the Komori 640 is \$17.97 to \$22.46; for the Komori 440, the rate is \$16.32 to \$20.40; and for the Komori 420, it is \$14.69 to \$18.36. The hourly pay range for the sheet fed feeders is \$10.82 to \$13.53, and for the floor helper, it is \$8.16 to \$10.20 an hour. Sheet Fed Press Lead Press Operator Hauger testified that his benefits are the same as those of other press employees.

The Web Press Operation. As indicated above, there are nine web press employees, including second web press operators, roll tenders and joggers, whom the parties agree should be included in the unit. While the Petitioner would include Lead Web Press Operators, Sean Sullivan, Gordon Ladao and Henry Ginoza in the unit, the Employer seeks their exclusion as statutory supervisors. The web press operation also uses, on occasion, temporary employees from an outside agency called Altres, whom the

parties have agreed to exclude from the unit, except for certain named temporary employees that they have agreed may be allowed to vote subject to challenge.

Web Press Manager Dolor manages the web press operation. Dolor testified that he basically works round the clock, seven days a week, and is on call whenever he is not at the facility. As indicated above, the web press operation differs from the sheet fed operation in that webs or rolls of paper are fed through the web press and after printing is completed, the paper is processed through a dryer section and into either a folding or sheeting device.

The Lead Web Press Operator and Second Press Operator. As indicated above, the parties dispute the supervisory status of the lead web press operators. There is a lead web press operator on each of the three shifts who is in charge of running the web press and directing the crew in the operation of the press. The lead web press operators ensure that all press procedures are properly handled. The leads spend their entire work time running the press and are very experienced pressmen. For example, Lead Web Press Operator Sean Sullivan has worked for the Employer or its predecessor Tongg for 15 years. Before working for Tongg, he worked for another publishing company. According to Sullivan, he started out as a jogger at his first company; rotated into the roll tender position; and then became a second pressmen. He testified that it took him about seven years to become fully trained as a lead operator on the web press.

The second web press operator assists the lead in operating the press, including mounting the plates; starting up the press; and “webbing” the paper through the press and the folder to prepare it for the press run. The lead and second press operator also handle the “make ready” process, which is conducted at the beginning of a printing job in order

to ensure that the color densities of the press are up to specific standards and that the printing plates and the ink registration are correct. The lead web press operator lines up all of the plates and the printing on the paper in order to set the area where the printing will appear on the paper. The web press prints on both sides of the paper and the first and second press operator generally handle one side of the paper each. The press operators also obtain some samples out of the job folder and check them for pagination, bleed margins, and printing quality. In addition, they set up the folding job and get employees from another department, usually plate makers from the pre-press department, to double check the quality of the fold or copy. The lead and second press operators also consult with the bindery supervisor about the best way to print a job for bindery purposes. After the paper goes through the print section, it goes through a dryer section and into either a folding device or a sheeter device.

The Roll Tenders. The roll tenders' main duties are to: retrieve web rolls of paper out of inventory for the printing jobs; get the rolls prepared for the job; and exchange the rolls on the press as they get used up during a job. In order to retrieve the rolls, the roll tenders use a modified forklift called a roll grabber, which has a clamp that grabs the rolls. The roll grabber forklift is also used by maintenance employees, bindery helpers, shipping department employees, warehouse employees, web press employees and sheet fed employees, when they are doing inventory control and off-loading work. For example, plant maintenance and bindery employees use the forklift to unload containers of rolls shipped to the Employer by sea. Web Press Manager Dolor testified that the roll tenders are trained how to do their job. However, they consult with the lead web press operator if there are any changes in their assignments or if any issues arise.



The Joggers. The joggers' main duties come at the end of the printing process and include taking paper off the press, stacking it, changing the skids on the back of the sheeter device when they are full, stacking and strapping folded sheets, and manually switching over the folders.

Installation of a New Web Press. At the time of the hearing, the Employer was in the process of installing a new web press on the main floor of its facility, a process scheduled to be completed by mid-September 2005. The record reflects that when the new press is installed, the Employer plans to remove the old web press and use the area where it is located to store web paper rolls.<sup>18</sup>

Salaries and Pay Rates. Web Press Manager Dolor is paid a salary of about \$40,000 a year plus bonuses. The hourly pay range for the lead press operators is \$17.22 to \$21.52; for the second press operators, \$15.60 to \$19.49; for the roll tenders, \$11.77 to \$14.72; and for the joggers, \$8.57 to \$10.71.

The Bindery Department. The Petitioner would exclude the approximately 34 bindery department employees, including two bindery shift foremen, 16 operators and 16 helpers from the unit. However, the Employer contends that all the bindery employees, except for Bindery Shift Foreman Tony Vendiola, must be included in the unit. While the Employer contends that Vendiola is a statutory supervisor who must be excluded

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<sup>18</sup> The new Goss M-600 web press will be 95% automated whereas the current web press is about 40% automated. The new web press will double the speed of the current web press and will also be able to handle in-line trimming, which will eliminate the need to have a post cutting process. According to Web Press Manager Dolor, the new press can be operated with a three-person crew and may not require a jogger. The Employer plans to send its web press crews to Boston, Massachusetts, for a week of training on the new press. No party contends that the installation of the new web press will significantly affect the Employer's workforce.

from the unit, it does not contend that Bindery Foreman Ken Tanaka is a statutory supervisor.

The bindery department is managed by Assistant Plant Manager Donald D'Amato. It is located in the open warehouse area adjacent to the web press area. Most of the work in the bindery department is in-house and generated by the web press, which produces the largest volume of work for the Employer. Bindery operators run machinery that cuts, folds and fastens together the final printed products coming off the web press. Such machinery includes guillotine paper cutters, folders, perfect binders and stitchers. All of these machines are located in the bindery area except for the cutters, which are located in the sheet fed press area and in the shipping department.<sup>19</sup>

There are three basic types of binding: "saddle stitching," a process whereby pages are stapled together at the spine of the book; "perfect binding," a process by which pages are glued together into booklet form and a separate cover is wrapped around them; and "spiral binding," which must be done manually. Hand collation work is also performed in the bindery department, and at times also in other warehouse areas, depending on space availability.

The bindery operators are generally assigned to regular jobs as folders, paper cutters, or stitchers. However, many are cross-trained to use other bindery machines and

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<sup>19</sup> The paper cutting machines are used both before and after materials are printed on the sheet fed press. A folder is a machine that folds flat sheets into a series of either parallel or perpendicular folds, making products ranging from simple brochures folded in the center, to a signature, which is part of a magazine that is printed in multiple pages at a time and folded into a 16-page booklet. A perfect binder machine feeds multiple signatures into pockets; collates and trims them; and at the end of the process wraps a cover around the pages and glues it to the book. The saddle-stitcher is the most common binding device; it collates each signature of a book into pockets; puts a cover on them; staples the spine; and finishes the trimming.

are moved to different jobs as needed. Folder operators pick up finished sheets from the press room; unload the paper in the bindery area; and jog, fan, and square the paper before stacking it onto a conveyor belt that automatically loads it into the folder machines. The folder operators' job is in some respects similar to that of the feeders in the sheet fed press room, who also jog, fan, wind, stack and load paper into the sheet fed press.

As indicated above, the bindery department also includes three paper cutters, who operate the two guillotine cutters located in the sheet fed department and another located in the shipping department. Helpers in the bindery department serve apprenticeships to learn how to use the paper cutters. Thus, D'Amato testified that former helper Chad Damas had been promoted to the position of cutter apprentice.

The bindery helper's job is to feed the pockets of the bindery machines. The record shows that in hiring for the bindery helper position, the Employer seeks persons who are "team players," and are "able to work," and that the job does not require any special knowledge of the printing process.<sup>20</sup>

The bindery department operates six days a week and has two shifts, the first from 5:30 a.m. to 2 p.m., and the second, from 2:30 p.m. until 11 p.m. There are nine operators and eleven helpers on the first shift and seven operators and five helpers on the

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<sup>20</sup> At the time of the hearing, the Employer had two individuals working in the bindery department who had been supplied by a temporary agency called Altres. The Employer has been regularly using Altres workers during the six months preceding the hearing. These temporary employees have primarily been working in the bindery and mailing departments as helpers, and also on the web press as joggers. No Altres workers were working in pre-press department at the time of the hearing. The Altres workers perform the same work as employees in the helper and jogger classifications. As indicated above, the parties have agreed to exclude all temporary employees, except for four named individuals who will be allowed to vote subject to challenge if they are still working for the Employer at the time of the election.

second shift. The schedule for the bindery workers includes a one-half hour lunch break, unlike the schedules for the employees in the pre-press and press departments, who do not have separate lunch breaks, but instead piece together two ten minute breaks for lunch and usually eat while working at the presses.

Uniforms. While bindery employees are not required to wear uniforms, most of them wear T-shirts supplied by the Employer.

Wage Rates of Bindery Employees. The hourly rates of pay for the bindery employees are as follows: shift foremen earn about \$19; operators earn \$16 to \$18; and helpers earn between \$7.50 and \$10.50. Bindery employees have the same benefit package as the other employees in the petitioned-for unit.

The Mailing Department. The Petitioner does not seek to represent the approximately 13 mailing department employees (i.e., one mail room lead, three data processors, four operators, two mailing CSRs, one helper, one mailing estimator and one driver). However, the Employer contends that these employees, with the exception of the mailing estimator and the mail room lead, must be included in the unit. As indicated above, the parties agree, and I find, that the mail room estimator and all other estimators should be excluded from the unit. The Employer would exclude Mail Room Lead Sandra Wright from the unit as a statutory supervisor.

The mailing department is located on the main floor of the Employer's facility. The data processing office is located in a locked room inside the mailing department. The mailing department also has an area for film storage for pre-digital plate products.

The mailing department is managed by Mailing Director Bartmann, who reports directly to Employer President Hudelist. There is also one Mail Room Lead, Sandra Wright. The mailing department operates five to six days a week.

About half of the materials handled by the mailing department involve preprinted materials supplied to the Employer by a customer for mailing; the other half is generated by the Employer's presses. In handling customer-supplied materials, the mailing department uses address lists supplied by the customer. The mailing department also handles tabbing, which is folding over materials; and sorting, which includes inserting bills into envelopes. Some mailing jobs are sent to the Employer's bindery for processing before being mailed out.

The mailing department utilizes computerized technology to do its work as do the other departments. However, Pre-press Manager Kondo testified that the data processors in the mailing department work on different files within the Employer's computer system than do the pre-press employees in his department.

Data Processors. Three data processors work at computers in a secured room within the mailing department the room is kept locked because of the confidential nature of the customer mailing lists that are stored there. The data processors use computer software to take client lists and sort mailings in accordance with various postal requirements. They also check customer files for missing data; verify information in customer files against the mailing lists supplied by the customer; merge and purge client records; and format customer files so that the Employer's inkjet mailing machines are able to laser jet and bar code materials for mailing. According to Mailing Director Bartmann, the data processors are very specialized employees and their qualifications are

based on their prior experience and knowledge. At least two of them had previously worked for another company that handles mailing work.

Mailing Operators. The four mailing operators are responsible for cleaning and maintaining all assigned equipment; setting up jobs; operating the equipment; handling quality control; making print adjustments; knowing mailing requirements; feeding the machines; carrying materials of up to 10 pounds weight; cleaning up; and helping with mail deliveries. The equipment in the mailing department consists of laser printers/inkjet machines, two inserters, and a polybag machine that puts a plastic coating on publications. Mailing Director Bartmann described the job of the mailing operator as requiring special skills acquired from experience. Specifically, she testified that two or more years of experience is required to be able to operate the laser printers, which involves a lot of complex variable data. According to Bartmann, the liability can be great if mistakes are made with client information. The job description for the mailing operator shows that this position is supervised by the mailing manager and is generally responsible for operation of the mailing equipment and for “supervising assigned helpers.” No party contends that the mailing operators are statutory supervisors and the record does not show that they possess the authority of a statutory supervisory.

Mailing CSRs. The two mailing CSRs work on teams with the sales executives and printing CSRs to assist them in dealing with mailing issues. The mailing CSRs also track jobs and provide client samples to the data processors to enable them to do their work. Although the mailing CSRs work throughout the plant, Mailing Director Bartmann testified that the majority of their work time is spent at their desks in the sales area on the second floor where their offices are located. The mailing CSRs spend about 30% of their

work time in other areas of the facility. They also go with sales executives to visit customers and have some of their own sales accounts.

The Mailing Helper. The mailing helper provides support to the mailing operator and the duties of this position overlap with those of the mailing operator.

The Mailing Estimator. The mailing estimator takes requests for job estimates from the sales executives and provides an estimate of the cost of the mailing job for the sales executive to present to the customer. The estimator works on the second floor of the facility.

The Mailing Driver. The mailing driver makes deliveries to and from the post office. He also assists the helper and sorts mail by hand.

Hours, Salaries & Wage Rates. Mailing department employees generally work Monday through Friday, from 9 a.m. to 4:30 p.m. They usually do not work on weekends. Mailing Director Bartmann is salaried and receives monthly bonuses. The two mailing department CSRs are paid salaries of \$41,000 and \$25,000 a year, respectively. The mailing department CSRs also receive bonuses on sales commissions earned by Bartmann. Data processors are salaried and are paid between \$28,000 and \$34,000 annually. The estimator is also paid a salary. Mailing operators are hourly paid at a rate of \$13.50 to \$15. Helpers are paid between \$8.50 and \$9 an hour.

The Shipping Department. The shipping department is located outside of the Employer's warehouse area. It operates five days a week on staggered shifts that start at 6:30 a.m. The shipping department is managed by Shipping Department Manager Van Benigno and has five drivers and one warehouse shipping dock clerk/driver, Kevin

Kurashima. Kurashima spends most of his time at the Employer's facility. The five drivers are out on the road every day making deliveries.

The shipping department handles all of the off-loading of shipments received at the Employer's facility and the delivery of finished products to customers. Drivers use small station wagons, various sized vans and box trucks requiring a special driver's license. Two of the drivers have such licenses. Drivers off-load shipments delivered to the Employer's facility and deliver paper and other supplies to the various departments. They also prepare finished products for inter-island shipment by barge; handle all inter-island barge paperwork, pallet wrapping; and prepare packing lists and the notifications and labeling for outer island shipments and air shipments. In addition, the shipping department handles the shipment of all proofs that the sales executives do not handle. Shipping department employees use forklifts, electric lifts, stand up lifts, pallet jacks and manual jacks in performing their job duties. Shipping Clerk/Driver Kurashima creates the packing list and packs the product on skids or according to applicable shipping instructions.

Maintenance Employees. No party contends that the maintenance employees should be included in the unit. There are two maintenance employees whose job is to make emergency repairs to the presses as well as to other equipment throughout the facility. The Employer subcontracts its regular cleaning/janitorial services. Maintenance employees also use forklifts to unload web rolls that are shipped to the Employer by sea.

Permanent Transfers, Temporary Interchange and Contacts Among Employees.  
The record contains little evidence of permanent transfers among employees in the various departments. Although the Employer posts job openings on its lunchroom



bulletin boards and attempts to hire from within, there are only three examples of a permanent transfer between departments. One of these involved a transfer from the press department to the pre-press department.<sup>21</sup> Another involved employee Emanuel (Noel) Gonzales, who started working for the Employer as a part-time pre-press and part-time bindery helper. About two years before the hearing, Gonzales voluntarily transferred to the position of proofer in the pre-press department. During the year preceding the hearing, he again voluntarily transferred to the mailing department to become a mailing operator. Another employee, Jason Garcia, transferred from the position of helper in the bindery department to that of feeder in the sheet fed press department.

Temporary Transfers. Although the record reflects that employees from other departments sometimes enter the press areas to provide assistance in performing the lesser skilled tasks of helpers, joggers and feeders, it also discloses that employees from other departments rarely perform skilled operator or plate maker work and that the operators and plate makers in the pre-press and press departments seldom leave their equipment to help out in other departments.

Thus, Pre-press Manager Kondo testified that he does not direct pre-press employees to work in the bindery or mailing departments and that bindery and mailing employees do not help out in pre-press. He testified that bindery employees enter his department only to complain about how a job was done or to explain how it should have been done. According to Kondo, over two years before the hearing, when Noel Gonzales worked in the pre-press department, Assistant Plant Manager D'Amato would borrow

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<sup>21</sup> Within the year preceding the hearing, web press operator, David Hotema, was promoted to the position of pre-press shift foreman.

Gonzales every couple of weeks to work in the bindery department for a week day or on weekends. However, Kondo testified that no similar borrowing of a pre-press employee had happened since about a year before the hearing when Gonzales transferred to the mailing department. Nor has Gonzales worked temporarily in the pre-press department since he transferred to the mailing department. Kondo further testified that pre-press employees have no interactions with employees in the mailing department. Sheet Fed Press Manager Watson testified that except for one occasion when the sheet fed press was “jam-packed” and the web press employees came over to help, employees from other departments do not come to help out in sheet fed because “there’s no way” [for them] to help.”

The record reflects that two bindery paper cutters work in the sheet fed press department cutting paper on the cutters located there. When the bindery paper cutters are not available, as on the third shift and on the weekends when the bindery department is closed, the sheet fed press operators sometimes use the paper cutter machines. Assistant Plant Manager D’Amato also testified that about once a month, when the web press runs a big job or a web press jogger is out sick or on vacation, bindery helpers will work in the web press department as joggers. About twice a month, the web press department also borrows one or more bindery employees to help trim or pull the edges off paper as it goes through the web press and is cut by a slitter.

There record reflects that unskilled press employees help out in other departments. For example, about once a month, if the bindery department cannot get the temporary workers that it needs from Altres, it uses a floor helper from the sheet fed press department to assist with bindery work. On weekends, the bindery uses Sheet Fed

Feeder Jason Garcia, whom Plant Manager D'Amato referred to as a "floater," to help out in the bindery department. At the time of the hearing, Garcia was helping out in the shipping department by unloading web rolls out of containers to put into inventory for web press usage. Sheet Fed Feeder General Anderson has also worked a couple of times helping out in the bindery. Sheet Fed Press Floor Helper Daniel Keaulii, also helps out in the mailing department when there are big jobs to handle.

Finally, as indicated above, Pre-Press Manager Kondo testified that two years before the hearing, when Noel Gonzales was a pre-press employee, he (Gonzales) would perform work in the bindery department about once every two weeks. However, Kondo testified that since he has been the pre-press manager, he has not asked any pre-press employees to help out in other departments. Nor has Gonzales returned to work in pre-press since he transferred to the mailing department within the past year.

There is some evidence of temporary transfers between the sheet fed and web press employees. For example, on one of the hearing days, Sheet Fed Floor Helper Daniel Keaulii was working as a jogger on the web press.

Pre-press, sheet fed and web press employees have also assisted by performing bindery work within their own departments. For example, about once every two months, when the bindery department has a large collating job and press runs are slow, materials are brought into the pre-press room for pre-press employees to collate by hand. About two weeks before the hearing, Komori 420 Sheet Fed Lead Operator Ferido and Sheet Fed Feeder Garcia Garcia were hand collating materials for the bindery department in the sheet fed department. The Employer has also occasionally brought boxes of materials

into the web press room and the lead and second press operators have helped hand-collate materials.

With regard to temporary interchange not involving pre-press and press department employees, the record shows that bindery employees assist in the mailing department about twice a week when the Employer deals with big mailing jobs. In this regard, Assistant Plant Manager D'Amato testified that on Tuesdays and Thursdays, bindery department employees work side-by-side with mailing department employees in the mailing department to bundle and sort a local newspaper. A week or two before the hearing, two mailing department employees helped out in the bindery department a couple of days each week.

Contacts & Interactions Among Employees. Pre-press Manager Kondo testified that the press operators enter the pre-press room on a daily basis in order to see if plates are done. He further testified that on weekends when pre-press is not working, the press operators will come into the pre-press department and make their own plates if they encounter scratches on a plate or some other problem. According to Kondo, only the most experienced press operators can do this, including Web Press Lead Operator Henry Ginoza, Sheet Fed Press Manager Watson, and Sheet Fed Press Lead Operators Makio and Costa. According to Kondo, if the press operators encounter problems making a plate on the weekends, they call him for assistance.

As indicated above, Kondo testified that the pre-press department has no interaction with employees in the mailing department. He further testified that the only employees who come into the department and operate the pre-press machinery other than

the press employees, are certain CSRs and sales executives who know how to use the computer to do their own preflight work.

The pre-press department has one employee, Steven Hoo, who handles inventory and supplies, and as a result, interacts with the shipping department in receiving and signing for supplies delivered to the pre-press department by the shipping department.

With regard to contacts involving sheet fed employees, the record reflects that most completed printing jobs are stored in the sheet fed area because it is air conditioned and better suited for drying ink. As a result, bindery department employees enter the sheet fed press area to pick up completed printing jobs and bring them into the bindery department.

Pre-press employees also enter the sheet fed press department to “rule up,” or “rule out” a project, meaning to double check it. The sheet fed department also confers with the mailing operators regarding whether the inkjet used in the mailing department will smear because of the use of special inks by the sheet fed department in printing a job. They also discuss the impact on shipping of the substitution of different paper in the press departments. Because the mailing department has a storage area for pre-digital film projects, pre-press operators, CSRs and production planners sometimes enter the mailing department to retrieve such materials if needed for new jobs. However, Mailing Director Bartmann testified that pre-press employees generally do not enter the mailing department. While mailing department employees contact the pre-press department if they need information on fonts for mailing purposes, they had done so only about 3 or 4 times during the year preceding the hearing. Data processing employees also enter the sheet fed department if they have questions about the paper stock used on a job. Mailing

Director Bartmann testified that not long before the hearing, sheet fed employees had come into the bindery department to help dry a project where the paper used was particularly dense.

Assistant Plant Manager D'Amato testified that bindery employees interact with CSRs "all the time" and they also interact with the shipping department employees, inquiring about the arrival of materials from other printers. Shipping employees in turn check with bindery employees about when a project will be completed and ready to ship. Shipping Manager Van Benigno testified that shipping department employees come into contact with employees in other departments on a daily basis when delivering supplies. If shipping department drivers are not busy with shipping work, they help out by taking out trash and loading mail trucks and working with CSRs to pick up products. Occasionally, they also work in the sheet fed department helping to stack goods. They also use the same lunchroom as other employees.

Sheet Fed Press Lead Operator Hauger testified that he had conferred with Bindery Department Supervisor Tony Vendiola only once or twice during the 18 months he had been a lead press operator. According to Hauger, bindery employees enter the sheet fed department two or three times during a shift to pick up jobs or ask a question. Lead web press operators and bindery department supervisors confer over the accuracy of the fold coming off the web and how to best handle the folding process for bindery purposes.

Web Press Manager Dolor testified that the web press roll tender employees interact with the shipping department foreman and employees when they unload the web paper rolls that arrive in the shipping department. He further testified that Maintenance

Employee Claudio Pacyao interacts with press employees by making repairs on the press about once a month.

With regard to interactions among the CSRs and other employees, the record discloses that CSRs enter the pre-press room to perform preflight functions as described above and to obtain proofs. The CSRs also enter the press rooms to help coordinate press checks. CSRs also work with the bindery supervisor and bindery operators in order to pull samples from the final finished product for customers and to arrange for customers to see their product being prepared in the bindery department. The record reflects that another reason employees enter other departments is that they share the same tools and equipment, including carts, rolling dollies, pallets, forklifts, tools, bearing pullers.

Analysis: Whether the Petitioned-For Unit is An Appropriate Unit. As indicated above, the Petitioner seeks to represent a traditional lithographic craft unit comprised of the Employer's press and pre-press employees, while the Employer contends that to be appropriate, the unit must also include CSRs, and employees in the bindery, mailing and shipping departments. For the reasons discussed below, I find that the petitioned-for craft unit of press and pre-press employees is an appropriate unit.

Section 9(b) of the Act confers on the Board the discretion to establish the unit appropriate for collective bargaining and to decide whether such unit shall be the employer unit, craft unit, plant unit, or subdivision thereof. A craft unit is defined as one consisting of a "distinct and homogeneous group of skilled journeymen craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment." *Burns & Roe Services Corp.*, 313

NLRB 1307, 1308 (1994); see also *Schaus Roofing*, 323 NLRB 781 (1977); *Firestone Tire Co.*, 223 NLRB 904 (1976). The Board will "determine the appropriateness of the craft unit sought in light of all factors present in the case." See *E. I. Du Pont & Co.*, 162 NLRB 413, 417 (1966).

It is generally well established that units combining pre-press and press employees constitute an appropriate craft unit. See, e.g., *Continental Web Press, Inc. v. N.L.R.B.*, 742 F.2d 1087, 1092 (7<sup>th</sup> Cir. 1984); *NLRB v. Lord Baltimore Press, Inc.*, 370 F.2d 397, 400 and n. 4 (8th Cir.1966); *Confort & Co.*, 267 N.L.R.B. No. 47, at p. 5 (Aug. 25, 1983) (citing *Allen, Lane & Scott, supra*);, 246 N.L.R.B. 921 (1979); *Meyer Label Co.*, 232 N.L.R.B. 933 (1977), rev'd, 597 F.2d 18 (2d Cir.1979); *Olin Corp.*, 229 N.L.R.B. 793 (1977). *Moore Business Forms, Inc.*, 216 N.L.R.B. 833, 834 (1975); *George Rice & Sons*, 212 N.L.R.B. 947 (1974); *Paramount Press, Inc.*, 187 N.L.R.B. 586 (1970); *Sherwin-Williams Co.*, 173 N.L.R.B. 316 (1968); *A.B. Hirschfeld Press, Inc.*, 140 N.L.R.B. 212, 216 (1962); *Allen, Lane & Scott*, 137 N.L.R.B. 223, 225 (1962); *Earl Litho Printing Co.*, 116 N.L.R.B. 1538, 1539 (1956).

The fact that floor helpers, feeders or roll tenders are included in the petitioned-for unit does not affect its traditional craft unit status since apprentices and helpers are oftentimes included in craft units. See *American Potash*, 107 NLRB 1418, 1423 (1954); *Fletcher Jones Chevrolet*, 300 NLRB 875 (1990).

After considering all of the evidence, I find that the pre-press and press employees constitute a distinct and homogeneous group of skilled journeymen craftsmen who, together with their helpers and apprentices, constitute an appropriate craft unit. Thus, the record shows that the pre-press and press operators are highly skilled lithographers who



have many years of experience in the printing industry. Pre-Press Shift Foremen Hotema, Mellem Hamabata have each worked in the printing industry for over 30 years;<sup>22</sup> The record also reflects that Mellem went through a two-year graphics program. Sheet Fed Press Lead Operator Hauger has 31 years of experience in the trade and has been a press operator for 15 years.<sup>23</sup> In addition, the record discloses that the Employer requires that its new hires have extensive experience in the press and pre-press areas and know the applicable software programs in the pre-press operation. It is also notable that the time of the hearing, the Employer was sending its web press crews from Hawaii to Boston to train on the new Goss web press that was being installed.

Furthermore, the record shows that the Employer's press and pre-press operators begin working in the industry in unskilled positions, such as helpers or feeders, and work their way up through jobs in the pre-press or press room. They apprentice for years before actually being in charge of imaging work, plate making or operating a press. Specifically, unless they are hired with substantial experience, employees in the Employer's sheet fed press operation begin by working as a helper or feeder and then becoming a roll tender and then a second press operator, serving as an apprentice on the least complicated press, the Komori 420, and then learning the Komori 440 and the Komori 640. The Employer's apprentice system is illustrated by the evidence that

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<sup>22</sup> Hotema worked for Tongg before working for the Employer.

<sup>23</sup> Hauger began working as a feeder in the sheet fed department at Tongg in 1974. As Hauger testified, "You have to work your way up from the feeder position." In 1994, he left Tongg and went to work for Oahu Bindery where he was working at the time the Employer acquired both Tongg and Oahu Bindery in 1995. Hauger continued to work for the Employer for about six months after the acquisition as the manager of both the sheet fed and web press operation. Hauger was then laid off and went to work for a different printing company, called Trade Publishing, where he worked for about seven years and became a lead web press operator. Hauger was rehired by the Employer about two years ago as a lead sheetfed operator on the Komori 640.

Second Press Operator Jantzen Damas was recently selected to serve as an apprentice to Lead Sheet Fed Press Operator Joe Cambra to learn how to operate the Komori 420. According to Sheet Fed Press Manager Watson, this apprenticeship would likely require two years before Damas would be able to independently operate the 420.

In sum, the many years of experience of the Employer's pre-press and press operators and the Employer's *de facto* on-the-job apprenticeship training program, supports a finding of craft status in this case.<sup>24</sup>

While the record indicates that the bindery department also has a *de facto* apprenticeship training program for its machine operators, and that data processor and operator jobs in the mailing department also require years of training and experience, such evidence does not undermine a finding of craft status in this case. In this regard, the Board has long recognized that employers may have multiple crafts or skilled groupings of employees working in their operations. See *Schaus Roofing & Mechanical Contractors, Inc., supra.*

The record also supports a finding that the petitioned-for unit is an appropriate craft unit because the press and pre-press employees are in separate departments and are separately managed from employees in the other departments, factors which have allowed them to retain their separate distinct identity from other employees.

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<sup>24</sup> See *MGM Mirage d/b/a The Mirage Casino Hotel*, 338 NLRB No. 64 (Nov. 20, 2002) ("These pay rates, along with the experience requirement, strongly support our finding that the Employer seeks and hires carpenters with journeymen carpentry skills. Moreover, the absence of a formal apprenticeship program does not negate this finding where the carpenters are hired with significant experience."); *Wal-Mart Stores*, 328 NLRB 904, 907 (1999) ("That the Employer does not have a meatcutter apprenticeship program or other formal training in meatcutting is of little relevance here, as the meatcutters had prior experience when hired."); *Anheuser-Busch, Inc.*, 170 NLRB 46 (1968) (finding craft status in absence of formal training program where electricians were hired with 3 to 4 years of experience).

In addition, the evidence regarding interchange supports a finding that the press and pre-press employees have remained a distinct homogeneous grouping of employees. Thus, while there is evidence of temporary interchange in the lesser skilled jobs of helper and feeder, there is little evidence that employees from outside the press and pre-press departments transfer to perform the skilled jobs of operator, imager or plate maker. The limited exception to this is the preflight work of the CSRs. However, in this regard, it is significant that the CSRs do not perform the actual imaging or conventional pre-press work of trapping, marking up files, making plates or running the presses. In addition, the CSRs perform such preflight tasks for only a very small portion of their overall work time and as part of their customer service functions.<sup>25</sup> In sum, while some evidence of interchange and contacts exists, the record discloses that employees from other departments do not help to operate the press and pre-press equipment because, with only a few isolated exceptions, they are not trained or experienced to do so. Nor do the press and pre-press operators and plate makers generally leave their departments to help out in other departments. Furthermore, to the extent there is evidence of cross-over work, the Board has recognized that even in craft situations, the integration of operations requires some cross over work between craft and noncraft employees and between employees in different crafts. See *Schaus Roofing & Mechanical Contractors, Inc.*, 323 NLRB 781 (1997) ( "Though some employees performed unskilled work in other trades, the overlapping of duties in the lesser-skilled aspects of a trade does not preclude a craft unit."); *Burns and Roe Services Corp.*, *supra* at 1307 ("Thus, despite some overlap of job

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<sup>25</sup> I further note that the interests of the CSRs' are more closely allied with those of the sales executives with whom they work on teams and share common supervision, the same second floor office area, and commissions.

functions, it appears that the majority of the nonelectrical employees do not have the expertise to perform the more complicated electrical work, and do not on a regular or routine basis perform work comparable to that performed by the electrical employees."); *E. I. du Pont & Co.*, 162 NLRB supra at 413 (finding appropriate a craft unit of electricians despite some overlap of functions requiring lesser expertise).

The Board also considers collective-bargaining history in making unit determinations in craft unit cases. In the instant case, this history shows that at the Employer's predecessor, Tongg, units of employees in the pre-press, press and bindery operations were each separately certified in the 1960s; covered under separate collective-bargaining agreements for an undisclosed number of years; and then covered under the same collective-bargaining agreement from 1992 to 1995. At the Employer's other predecessor, Oahu Bindery, a unit of production and maintenance employees, which did not include pre-press or press employees, was certified in 1988. In 1992, a certification issued stating that the Petitioner was not the exclusive representative in a different unit of mailing, binding and shipping employees of Oahu Bindery. Finally, in 1996, under the terms of a non-Board settlement agreement, the Petitioner lost an election in a unit combining only pre-press and press employees of the Employer.

After considering the foregoing collective-bargaining history, I find that it is not dispositive of the unit determination issue in this case. Thus, the separate certifications of units at Tongg issued over 30 years ago and involved a different employer in a different operation than exists today. Further, it has been over ten years since the most recent collective-bargaining agreement was in effect combining a unit of press, pre-press, and bindery employees, and it has been nine years since the Petitioner lost the election in the

unit combining only press and pre-press employees. Thus, it has been a decade since there was any collective-bargaining agreement in effect, and that agreement covered only employees at Tongg. In sum, given the changes in operation and the lapse of time since the certifications and the single contract that is in evidence, I do not find that such evidence is particularly supportive of either party's position in the instant case.

Another consideration the Board takes into account in craft unit cases is whether the union seeking to represent the employees is qualified to represent them. Here, the record shows that the Petitioner represents many units that include lithographic employees in the State of Hawaii.<sup>26</sup> Further, no party contends that the Petitioner is unqualified to represent the unit in this case.

In reaching the conclusion that the petitioned-for unit is an appropriate craft unit, I have considered the evidence of functional integration in the Employer's operation. However, given the factors addressed above, I do not find such evidence sufficient to obliterate the craft status of the petitioned-for unit.

In sum, I find that the petitioned-for unit is an appropriate separate craft unit based on the traditional skills and functions of the press and pre-press employees; the separate management of their departments; the lack of evidence of integration and interchange sufficient to destroy their separate identity as lithographers; the lack of a collective-bargaining history that undermines their separate identity; and the Petitioner's qualification to represent such employees.

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<sup>26</sup> Nor do I find that the fact that the Petitioner may represent other units in Hawaii which combine pre-press, press and other production employees sufficient to warrant a different result in this case where the Petitioner is seeking a traditional lithographic craft unit and the record supports such a unit.

In reaching this conclusion, I have carefully considered the cases relied on by the Employer and do not find them to be persuasive. *Bi-Craft Litho, Inc.*, 316 NLRB 302 (1995), cited by the Employer to support the inclusion of the bindery employees in the unit, is inapposite. In *Bi-Craft*, an employer refused to bargain with a union on the basis that it had a good faith doubt of the union's continued majority status. The employer and the union stipulated that they had been parties to a series of collective-bargaining agreements that included both lithographic and bindery employees. Thus, *Bi-Craft* did not present the issue of whether a unit of lithographic employees that excluded bindery employees is an appropriate unit. *Cedar Tree Press, Inc.*, 324 NLRB 26 (1997), cited by the Employer, is also inapposite because it involved a test of certification of a unit that included pre-press, press, warehouse, maintenance employees, bindery employees and truck drivers, based on the employer's contention that the Regional Director had abused his discretion by refusing to issue an absentee ballot to an eligible voter. Thus, *Cedar Tree* presented no issue regarding the inclusion of other classifications of employees in a lithographic unit.

*NLRB v. Myer Label Company, Inc.*, 597 F2d 18 (2d Cir. 1979), cited by the Employer for the proposition that a unit limited to only lithographic employees is not appropriate, is distinguishable from the instant case for the following reasons. First, in *Myer*, the employer had a very small operation with only 30 employees whereas the Employer herein has over 100 employees. Second, in contrast to the instant case, in *Myer* there existed evidence of significant interchange involving even the lithographers. Third, in *Myer*, supervision was centralized under a single plant supervisor in contrast to the instant case where each department has its own separate manager. Fourth, in *Myer* there

was no apprenticeship system, whereas in the instant case the Employer has a *de facto* apprenticeship system and/or requires its operators to have many years of experience in the craft before they operate its equipment.

Finally, I find the other cases relied on by the Employer to be unpersuasive, including *Buckhorn, Inc.*, 343 NLRB No. 31 (2004), *TDK Ferrities Corp.*, 342 NLRB No. 81 (2004) and *Boeing Company*, 337 NLRB 152 (2001). Thus, in *Buckhorn*, the Board found that a petitioned-for unit of maintenance employees that excluded production employees was not an appropriate unit where the maintenance employees often worked on the production floor and shared supervision with the production employees and had common terms and conditions of employment with production employees. By contrast in the instant case, the press and pre-press operators have separate supervision from other employees and they do not work in other departments; nor do employees from other departments operate the presses or the pre-press equipment, with the exception of CSRs, who sometimes perform limited pre-press work, as described above.

*Boeing Company* involved a petitioned-for a recovery and modification unit at Charleston Air Force Base, South Carolina. In that case, the Board decided that only an overall production and maintenance unit was appropriate, based on the high level of integration of the workforce; the similarity of training and job functions among the employees in the petitioned-for unit and other production employees; and the comparable terms and conditions of employment of employees in the two groups. By contrast, in the instant case, there is no showing that employees from other departments perform the jobs of the skilled imagers, plate makers or press operators, or that the imagers, plate makers

or press operators perform work in other departments. Rather, the evidence of interchange is limited to lesser-skilled jobs, such as those of helper, feeder and jogger, which does not obliterate the craft identity of the lithographers. And, as indicated above, the fact that the petitioned-for unit includes such lesser skilled employees as the helpers, feeders and joggers, is consistent with a finding of craft status in the instant case.

In *TDK Ferries Corp.*, the Board found that a petitioned-for unit of maintenance department employees, production technicians, tooling specialists and set up specialists employed by the employer was not appropriate based on the fact that they were not in a separate department from other production employees and because they worked side-by-side with such employees and shared immediate supervision with them. By contrast, in the instant case, the press and pre-press employees are in distinct departments and have separate management from the other employees that the Employer seeks to include in the unit. The press and pre-press operators and plate makers do not temporarily transfer into other departments. Nor do other employees try to perform pre-press or press operator work with the limited exceptions noted above.

Finally, the Employer's reliance on *Continental Web Press, Inc. v. NLRB*, 742 F2d 1087 (1984), is misplaced. In that case, the Court ruled that the Board erred in certifying a unit comprised solely of pressmen at a commercial printing company and that the unit must also include preparatory (pre-press) employees, which is precisely the unit petitioned for in the instant case.

In conclusion, I find that none of the cases cited by the Employer are controlling in the instant case. Accordingly, I conclude that the petitioned-for craft unit of lithographic pre-press and press employees is an appropriate craft unit.



Whether Shift Foremen, Lead Sheet Fed Press Operators and Lead Web press Operators Are Statutory Supervisors.

As indicated above, the Employer contends that the unit must exclude pre-press shift foremen, lead sheet fed press operators, lead web press operators, the bindery foremen and the mail room lead as statutory supervisors. The Petitioner takes the opposite view with regard to those alleged to be supervisors in the pre-press and press departments. With regard to the bindery foremen and the mail room lead, as noted above, the Petitioner does not seek to represent employees in the bindery and mailing departments. As I have found that bindery and mailing department employees should be excluded from the unit, I need not address the supervisory status of employees in those departments.<sup>27</sup> For the reasons discussed below, I find that the pre-press shift foremen, lead sheet fed press operators, lead web press operators are not statutory supervisors, but employees within the meaning of the Act and include them in the unit.

The Pre-Press Shift Foremen.

The record reflects that Pre-Press Manager Kondo works from 9 a.m. to 5 p.m. He also works late a couple of times each week depending on the workload. Kondo spends half of his work time doing hands-on work in the pre-press department. The remainder of his work time is spent handling maintenance on the computer server used by the department.

Under Kondo are the three shift foremen (First Shift Foreman Pat Hotema, Second Shift Foreman David Mellem and Third Shift Foreman Cory Hamabata), whose

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<sup>27</sup> The Employer does not, in any event, contend that Bindery Shift Supervisor Ken Tanaka is a statutory supervisor.

supervisory status is in dispute. There are 12 other pre-press employees who work in the department (i.e., imagists, proofers and plate makers). Hotema, Mellem and Hamabata are working foremen who spend their entire shifts performing pre-press work. Hotema and Mellem perform conventional pre-press work and Hamabata is an experienced electronic/imagist.

First Shift Foreman Hotema's shift runs from 6 a.m. to 2 p.m.; Second Shift Foreman Mellem's shift runs from 2 p.m. to 10 p.m.; and Third Shift Foreman Hamabata's shift runs from 10 p.m. to 6 a.m. At the time of the hearing, Hamabata had been on disability leave since about May 2005. He was not expected to return until mid-September 2005. No one has substituted for Hamabata on the third shift during his absence. Normally, Hamabata and two other employees work on the third shift. However, at the time of the hearing, the only employee working on that shift was Bruce Okikawa, whom Second Shift Foreman Mellem had recently trained for that position. The Employer had also recently hired another employee, Dave Johnson, to work on the third shift. However, at the time of the hearing, Johnson was still in training on the second shift. Normally, pre-press employees working on the third shift obtain their work instructions from the schedule prepared by the scheduler. As noted above, the schedule shows the prioritization of jobs and describes what each department is supposed to do on a job. The third shift foreman would provide directions if anything out of the ordinary occurred. In this regard, Kondo has given his cell phone number to all pre-press employees and they are instructed to call him if any problems arise when he is away from the facility. At the time of the hearing, Okikawa received working instructions from

Second Shift Foreman Mellem, who told him what jobs needed to be completed by the end of the third shift.

Kondo testified that the three shift foremen have the same level of authority.

Kondo also testified that he makes all personnel decisions, including hiring, firing, and scheduling, during the hours he is present at the facility, which overlap with five hours of the first shift and with three hours of the second shift. The record reflects that Kondo approves all vacation and sick leave for pre-press employees and assigns and prioritizes work when he is present. When Kondo is present, employees must ask his permission to leave work early. He is the one who grants time off and assigns overtime weekend work to pre-press employees.<sup>28</sup>

Each pre-press shift foreman is very experienced in the printing trade. Second Shift Foreman Mellem has worked in the printing industry for approximately 35 years and went through a two-year graphics program. Before coming to work in the Employer's pre-press department in about 1994, Mellem had worked in the bindery and on the web press for Tongg. First Shift Foreman Hotema has worked for the Employer or

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<sup>28</sup> The job description for the pre-press foreman states that this position is responsible for supervising the operations of the pre-press proofing and plate making operation and for issuing job orders in accordance with work schedules while working in the production environment. The job duties listed for the position include: supervising all preparatory department personal involved in plate making, and proofing operations during shift hours; performing various jobs within the department when emergencies or overload conditions develop; recommending plans for production improvements; reviewing dialing work in progress and ensuring that personnel have correct instructions and specifications; monitoring production output with emphasis on production and quality standards; running tests at the beginning of the shift to ensure proper exposures and established standards of proofing and plating equipment; maintaining production schedules to desired requirements, including making sure plates are ready for all presses on schedule; notifying scheduling or production manager of potential press down time; working with the imaging department to coordinate proper output sequence to maintain proofing and plating schedules; quality control checking all proofing jobs prior to leaving department, including proper trimming of imposition proofs, double checking of job ticket description against proofs to be sent out; and job ticket discrepancies and errors and all revisions; imposition layout, trims and SIG ID; maintaining good housekeeping and performing other duties as requested.

its predecessor for over 30 years. He previously held Kondo's current position for two years before he became the pre-press shift foreman two years ago.<sup>29</sup> Both Mellem and Hamabata testified that they have never been given any supervisory training.

Hiring. Pre-press Manager Kondo testified that he has independent authority to hire pre-press employees and the pre-press shift foremen do not have any hiring authority. He testified that he knew of no occasion where a pre-press foreman had made an effective recommendation regarding the hiring of a specific employee. However, Kondo testified that Shift Foreman Hamabata had asked if Kondo would hire a full-time imaging person for the third shift because the two part-time imaging employees whose shifts overlapped with the third shift were not always available to handle jobs that needed to be returned to imaging for further work during the third shift. Kondo testified that based on Hamabata's request, he had hired Dave Johnson to work on the third shift, and Johnson was being trained at the time of the hearing. The record contains no evidence that Hamabata recommended that Johnson be hired.

Authority to Stop Jobs and Approve Proofs. Kondo testified that all employees in pre-press department have the authority to stop a job if they discover a significant mistake or a way to improve the job or to cut costs. Kondo testified that Shift Foreman Hotema had recently stopped a job and returned it to the planners because he saw a way to run it more efficiently and eliminate unnecessary paper cutting work.

Kondo testified that while any pre-press employee may stop a job, only he or the pre-press shift foremen have the authority to approve a job and allow it to proceed to the

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<sup>29</sup> Hotema testified that he agreed with the Employer's decision to demote him to the shift foreman position because he did not have enough expertise in electronic/imaging pre-press to be in charge of imaging work.

press department. Thus, Kondo and the pre-press shift foremen are authorized to sign the “Proof Approval Form” which approves the job for the next step in the production process. According to Kondo, the pre-press foremen do not have to consult with him before they sign this form. Without the signature of a shift foreman or a manager on this form, a job cannot proceed to the press department. Second Shift Foreman Mellem testified that when he signs off on the form, the job can go forward, but he further testified that the only proofs he signs off on are those that have no corrections and that the customer has seen and approved. According to Mellem, if corrections need to be made, the proof must be sent back to the CSRs and the planners to obtain the necessary customer approval. According to Mellem, he rarely deals with proofing and he never signs off on the proofs by himself. Rather, he is just “the second set of eyes to double-check to make sure the job looks correct.”

Scheduling and Assigning Work. Scheduler Elen Miller makes the schedule for jobs in all departments, including for proofing and plating. The schedule prioritizes the jobs and describes the work to be performed in each department. It is updated three times a day. As indicated above, during the first and second shift, when Kondo is present, he makes the work assignments. In his absence, as long as the daily schedule is not disrupted, the pre-press shift foremen direct employees to perform various tasks on a job or to stop what they are doing and perform other tasks that have higher priority. However, Mellem testified that the work is generally the same from day to day and that the only times when there are any significant deviations from regular assignments are when there are equipment breakdowns.

Performance Evaluations. The record reflects that the pre-press shift foremen filled out evaluations on other pre-press employees in 2003 and 2004 but have not done so in 2005. The record contains several 2003 evaluations of pre-press employees filled out by Mellem and Hamabata. Mellem and Hamabata testified that they had filled out evaluations in 2003, and Hamabata also testified that he had prepared evaluations in 2004. Neither Mellem nor Hamabata knew what was done with the evaluations they filled out and neither knew whether the evaluations had any effect on the employees being evaluated. Neither had ever met with employees to present or review the evaluations they had prepared. Hotema testified that he has never prepared an evaluation for an employee since he has been a shift foreman. The three shift foremen testified generally that they were unaware of how decisions regarding promotions were decided and what role, if any, the evaluations played in promotional decisions. .

All of the evaluations in the record have the same format and questions. They rate employees on a scale ranging from unsatisfactory to excellent in various areas, including quality and quantity of work, dependability, cooperation, job knowledge, etc. The evaluations also have spaces for written comments, including a description of the employee's strengths and areas needing further development as well as objectives for the employee to achieve during the next appraisal period. The numerical ratings in each area are translated into overall scores which are ranked as A, B, C and unsatisfactory. One of the 2003 evaluations is signed only by Hamabata. Another is signed by both Hamabata and Kondo's predecessor, Jade DeBone. And another is signed by Mellem and Jade DeBone.

Kondo testified generally that the performance evaluations filled out by the shift foremen are reviewed by the departmental manager. According to Kondo, he has been pre-press manager during the year preceding the hearing and during this period, he prepared all of the evaluations for first and second shift pre-press employees because he knew their work first-hand. He testified further, however, that in the future he intended to obtain input from Hotema and Mellem when he prepared evaluations. Kondo testified that in 2004, Hamabata had prepared evaluations for part-time employees Bert Tokita, Sam Usam and Bob Nagata. Nagata's and Usam's shifts overlap the third shift. Kondo testified that he (Kondo) did not sign these evaluations but had relied solely on the evaluations prepared by Hamabata evaluation because he had not worked directly with these employees. He also testified that he had not worked directly with Bruce Okikawa and new hire David Johnson, and that he would rely on the shift foreman's judgment when he evaluated them.

With regard to the impact of the shift foremen's evaluations on employees, Kondo testified that the Employer uses the evaluations to give feedback to employees and in some cases to support pay increases. Kondo testified that he was not aware of any Employer policy to grant a pay raise to employees who received a good evaluation. He testified that all but three employees had received a pay increase in differing amounts in late January or early February 2005. According to Kondo, the decision not to give an increase to three pre-press employees was made because their pay rates were already higher than those of other employees. The record also shows that the managers in each department were told that their respective departments had been given a two percent increase that could be allotted among their employees, and that in deciding how much

each employee would receive, the departmental managers could based their decisions to some extent on employee performance as measured by the employee's evaluation.

However, the record does not contain any evidence to show a direct correlation between the amount granted an employee and the evaluation prepared by a pre-press shift foreman. Before the pay increases given in 2005, the most recent pay increase had occurred in about 2001. It is notable that none of the evaluations in the record contain anything indicating that the Employer viewed pre-press shift foremen to be supervisors.

Disciplinary Matters. While the record reflects that Pre-press Manager Kondo handles all disciplinary matters of pre-press employees, Kondo testified that the shift foreman have the authority to recommend discipline, to orally reprimand employees, and to send employees home who engage in misconduct. Kondo testified that on one occasion within the 18 months preceding the hearing, Third Shift Foreman Hamabata had reported to him that employee Eric Fawcett was not staying at his job station and was disregarding Hamabata's directions. Hamabata testified that he had spoken to Kondo about Fawcett's poor job performance and recommended that Kondo talk to Fawcett, "give him a wake-up call," and perhaps suspend him, and that Kondo had said that he would look into the matter. Hamabata testified that he did not know what, if any, action Kondo took about this situation. According to Kondo, after Hamabata spoke to him, he met with Fawcett, and told Fawcett that he had to listen to Hamabata because Hamabata was the shift foreman. However, no further disciplinary action was taken against Fawcett, who subsequently quit his job for medical reasons.

Kondo also testified that Shift Foremen Mellem and Hamabata had reported to him that pre-press employee Richard Socito was making mistakes in his work and that he



(Kondo) had held a one-on-one meeting with Socito, which was not documented, and told Socito that he had to be more careful. Mellem, however, denied recommending that Kondo discipline Socito. No formal disciplinary action was taken against Socito.

Finally, Kondo testified that the pre-press shift foremen could send employees home if they were “combative,” “physically threatening” or a “nuisance.” However, the record contains no evidence that they have done so.

Vacation, Overtime and Time Off. The record reflects that Kondo authorizes vacation and sick leave and that the shift foremen are not involved in such decision-making.

Kondo testified that both he and the pre-press shift foremen may independently authorize overtime work for themselves and for other pre-press employees. According to Kondo, the Employer has no written guidelines for when overtime should be authorized. However, he has instructed the shift foremen that they may authorize overtime in order to take care of “urgent work,” which he described as work (i.e., proofs or plates) that is scheduled to be completed that day. The record contains a 2003 memorandum granting the shift foremen the authority to authorize overtime.<sup>30</sup> The record also contains timesheets showing numerous overtime hours worked by pre-press employees during the period from February 1 to July 10, 2005. Kondo testified that the initials on these forms are those of the pre-press shift foremen. According to Kondo, although he reviews the

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<sup>30</sup> This memorandum, which is dated October 2, 2003, and addressed to the pre-press department, states that “overtime must be authorized by your foreman prior to being worked.” The memo also states that “when overtime is needed, every effort will be made to give you as much notice as possible so that you can arrange your personal schedule.” The memo does not indicate who wrote it but it is signed as an acknowledgement of receipt by all of the pre-press employees and by the pre-press manager and the shift foremen.

timesheets to ensure that the overtime hours are not excessive, he does not approve or sign off on the overtime hours before the Employer pays for the overtime worked. Kondo testified that he has never overturned a shift foreman's decision to authorize overtime. However, he testified that in May 2005, when he reviewed the time sheets, he considered the overtime hours approved by Pre-Press Shift Supervisor Hotema for Steven Hoo to be "a little bit excessive," so he spoke to all of the first shift employees about not working excessive overtime. Kondo testified that he did not address the issue solely with Hotema because Hotema was not the only one causing the problem. The record reflects that about May 18, 2005, Kondo posted a memorandum removing the authority of the shift foremen to authorize overtime. According to Kondo, the shift foremen's authority to approve overtime was taken away because of perceived abuses. The record reflects that Kondo only began to notify the shift foremen that they could again authorize overtime a few days prior to the hearing, on about July 18, 2005.

Kondo further testified that he handles all work assignments and overtime decisions when he is present at the facility. Kondo also decides who works overtime on the weekends.<sup>31</sup> According to Kondo, if the overtime work is of a type that only certain employees can perform, he assigns the work to them; otherwise, he attempts to evenly distribute overtime work using a list that he maintains for that purpose.

Shift Foreman Hamabata testified that he did not need approval to work overtime and that he could authorize overtime in order to complete work. Shift Foreman Mellem

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<sup>31</sup> Employees work overtime on the weekends about once a month. In ordering weekend overtime, Kondo considers recommendations from Foreman Hamabata about the need for weekend work because Hamabata is the last foreman working on Saturday morning; Hamabata's shift runs from 10 p.m. Fridays to 6 a.m. on Saturdays.

testified that he could grant overtime on his own authority only if he encountered a problem that required an hour or less of overtime work. According to Mellem, if more than an hour of overtime work is necessary, he contacts Kondo. However, Mellem further testified that he was unaware of any specific guidelines for authorizing overtime. Mellem testified that he did not order employees to work overtime. Rather, he asked them to do so, and if they refused, he would ask someone else or do the work himself.

Kondo deals with all requests for time off when he is at the facility. He testified that in his absence, the shift foreman are authorized to allow employees to leave work early if there is not enough work to keep them busy or if the employee is ill or needs time off to conduct personal business. Kondo testified that the Employer has no written policies about when employees may leave work early. He testified that the pre-press shift foremen are authorized to use their own discretion in making such decisions.

The only concrete example that Kondo testified to regarding a shift foreman allowing an employee to leave work early was when Third Shift Foreman Hamabata allowed employee Bert Tokita to leave work early because there was no more work to do. Kondo testified that he (Kondo) had never sent anyone home for lack of work and that he had subsequently talked to Hamabata about his action. Hamabata confirmed that on a few occasions, he had allowed Tokita to leave work early when Tokita asked to do so and there was no more work to do. According to Hamabata, his understanding was that the Employer had no problem with allowing employees to leave work early in such circumstances because it saved the Employer money. Hamabata testified that he had never been reprimanded for doing this.

Second Shift Foreman Mellem testified that he had never sent any employees home from work or assigned them to perform work in another department when work was slow in the pre-press department. First Shift Foreman Hotema testified that he believed he had the authority to authorize employees to leave work up to a couple of hours early if they asked for the time for a doctor's appointment or for some other personal matter. Hamabata, Hotema and Mellem all testified that they would allow employees who got sick during their shifts to go home; Hotema testified in this regard that he has no authority to order people to stay at work if they say they are ill. Hotema testified that he notifies Kondo of an employee's absence as soon as Kondo arrives at work. Kondo is responsible for finding replacements for absent employees.

Although Kondo further testified that the shift foremen have the authority to tell employees that they cannot leave work early when they request to do so, the record does not contain evidence of any specific occasion where this occurred.

Training. The record reflects that the pre-press shift foremen assist in training new employees. Kondo and Mellem testified that Mellem had trained the Employer's most recently hired employee, Bruce Okikawa, and that Mellem had informed Kondo that Okikawa was competent to start working on the third shift. Kondo testified that he did not independently investigate Mellem's judgment in this regard.

Recommendations for Job Improvements. Kondo testified that Third Shift Foreman Hamabata had suggested that the Employer create a proofing checklist and that such a form had been created and was being used by the proofers who must sign the form. However, Hamabata denied that he had suggested the checklist in question. Rather, he testified that he had merely recommended that the department reinstitute its

use of a checklist previously made up by Marketing Trainer Brian Trusler. Hamabata and Mellem also testified that everyone in the pre-press department makes recommendations to improve work in the department.

Substitutions. Kondo testified that the pre-press shift foremen substitute for him when he is on vacation or absent for other reasons. However, the record contains no specific evidence of any pre-press foreman having exercised supervisory authority while substituting for Kondo. All employees have been given Kondo's cell phone number and told to call Kondo if problems arise in his absence. No one substitutes for the shift foremen when they are absent and they are not on call when they are not at the facility. Generally, the issues that cause the pre-press foremen and/or other employees to call Kondo involve technical matters.

Wage Rates and Benefits. The pre-press shift foremen are hourly paid like other pre-press employees. Kondo testified that they receive about a dollar more an hour because of their shift foreman position and that they had received this raise at the time they were promoted to the shift foreman position. Otherwise, they have the same benefits as other pre-press employees.

The Sheet Fed Press Lead Operators. There are seven sheet fed press lead operators,<sup>32</sup> whose supervisory status is in dispute. A lead press operator is assigned to each sheet fed press in operation during a shift. Each of the lead sheet fed press operators is a working leadman who spends all of his work time operating the press. They are in charge of their assigned press during their shift and use their knowledge and experience

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<sup>32</sup> The lead sheet fed press operators are also called "first press operators" or simply "press operators" as in the job description for their position.

to decide how to run jobs most efficiently so as to avoid errors and obtain a quality product.

On the first shift, Lead Press Operator Ben Hauger and Second Press Operator Jarren Alfeche are assigned to the Komori 640; Lead Press Operator Kent Igarishi and Feeder Jason Garcia are assigned to the Komori 440; and Lead Press Operator Winston Ferido is assigned to the Komori 420. No second press operator or feeder works on the Komori 420. A floor helper is also assigned to the first shift. On the second shift, Lead Press Operator Shawn Javier and a second operator or feeder are assigned to the Komori 640; Lead Press Operator John Whitten and Feeder General Anderson are assigned to the Komori 440; and Lead Press Operator Joe Cambra is assigned to the Komori 420. On the third shift, Lead Press Operator Steven Costa and Second Press Operator Jantzen Damas are assigned to the Komori 640. At the time of the hearing, the Komori 440 and the Komori 420 were not operating during the third shift.

As indicated above, Sheet Fed Press Manager Watson is present during about 5 ½ hours of the first shift and 3 ½ hours of the second shift. While he is not regularly scheduled during the hours of the third shift, Watson is on call 24 hours a day, seven days a week.

The job description for the sheet fed press lead operator position is entitled “press operator.” The record includes no separate job description for a first, lead or second press operator position. The job description for “press operator,” states that the individual in this position performs manual and machine operator tasks in the set-up, maintenance and operation of the press. These tasks include reading instructions from the job jacket; setting up or directing the set up of the press in accordance with the job

order; handling the “make ready” for the job by running samples on the press to adjust print quality, registration, color settings and mixings; making a final pre-run inspection of the job; and approving or conferring with a supervisor for approval of the job. The job description also states that the lead press operator performs preventative maintenance on the press, such as lubrication of the press, replacement of small parts, cleaning and minor adjustments to rollers and other small moving parts; maintaining and reading material safety data sheets; and ensuring the proper handling and disposal of hazardous materials.

The sheet fed press lead operators operate or assist on other pressroom equipment as needed and as their work load permits. They also assist in keeping work areas clean, making plates, trimming paper when necessary, checking plates and proofs for errors before a job goes to the press, and monitoring and training the crew continuously for fastest possible make-ready and production. The requirements for the job include having a good knowledge of how to mix and produce correct color in printing, the applicability of various jobs to the press, the ability to read and understand written instructions and set up the press to carry out those instructions, and a thorough knowledge of problem solving on the press and of press operations and functions.

The job description also states that the lead press operator is responsible for the quality of printed work within defined levels of authority. Specifically, it states that on the first shift, the lead press operator checks all jobs with the pressroom manager or plant manager, and on the second and third shifts, he checks all jobs with the lead press operators on the other presses. The job description further states that the lead press operator “supervises” the crew on multi-color presses; completes production records (timesheets, job tickets, etc.); and follows all steps in the procedure handbook.

The record shows that the lead press operator can independently make adjustments to a job for a customer if no manager is available. For example, the lead press operator may make slight adjustments in the coloration of a job. For more substantial adjustments in color, the lead press operator must stop production and go into the pre-press room to have the files manipulated. The lead press operator's ability to make adjustments, modifications, etc. on a job is limited time-wise; that is, he cannot delay the press run for more than two hours without involving management in the decision because such a delay could affect the production schedule.

Training, Apprenticeships and the Level of Experience of Sheet Fed Press Lead Operators. Although the record does not contain any documentation regarding a formal apprenticeship program operated by the Employer, it nevertheless shows that the Employer uses an apprentice system for the sheet fed press. Thus, the record reflects that at the time of the hearing, Sheet Fed Press Manager Watson had selected Second Press Operator Jantzen Damas to become an apprentice to Lead Press Operator Joe Cambra on the Komori 420, a process which Watson testified would take two years. The record also shows that the sheet fed press operators have many years of experience in the printing industry and have reached their positions by working in other positions, such as helper or feeder on the press, and then being apprenticed to an operator before becoming an operator themselves. For example, Lead Press Operator Benjamin Hauger, who is assigned to the Komori 640 press on the first shift, testified that he has 31 years of experience in the printing industry and had been a press operator for 15 years. According to Hauger, it takes about ten years to learn the printing business, and about twenty years to become a competent press operator. According to Hauger, the key to the job is to



“build up a lot of experience.” Hauger started out as a feeder; then worked on smaller presses; and now works on the Komori 640, which is the Employer’s fastest, most complicated press. Hauger testified that the other two lead press operators who operate the Komori 640, Steven Costa and Brian Makio, are the most experienced of the sheet fed press operators.

Watson’s Involvement in the Operation & the Authority of the Sheet Fed Press Operators. As indicated above, Sheet Fed Press Manager Watson works Monday through Friday, from 9 a.m. to 6 p.m.. His shift overlaps the first and second shifts, and he is on call at all other times. Watson is in the sheet fed area for about four or five hours a day. He usually does not work on the presses. Lead Press Operator Hauger testified that when he is working the third shift, he typically telephones Watson about once a week for assistance in dealing with problems involving “top grade commercial jobs.” Otherwise, Hauger testified that he makes most of the technical decisions on jobs during his shift.

Hiring Authority. Sheet Fed Press Manager Watson handles the hiring for the sheet fed press department. He testified that he became sheet fed press manager about a year before the hearing and that during this period, none of the lead press operators had made any hiring recommendations or been involved in any hiring decisions.

Authority to Assign Work and to Transfer Employees. Watson schedules and assigns work to employees in the sheet fed press operation. He described only one occasion when he had considered the recommendation of a lead press operator to transfer an employee to a different press. Specifically, Watson testified that he transferred Feeder Jason Garcia after Lead Press Operator Hauger complained that he could no longer work with Garcia because of “friction.” In this regard, Hauger testified that about six or seven

months before the hearing, he had complained to Watson that it was difficult to work with Garcia on the Komori 640, because Garcia was unable to keep the press running. As indicated above, the 640 is the most complicated and fastest sheet fed press operated by the Employer. Watson transferred Garcia, whom Watson described as a “floater,” to work on the Komori 440, which is a smaller and slower press.

Technical Authority. Sheet Fed Press Manager Watson testified that the sheet fed press lead operators are responsible for the product coming off their assigned presses. Watson described the lead press operators as “being in charge of the press” and testified that they needed “to run the jobs, [and] make sure they look good, no errors.” In this regard, he described a situation where a lead press operator independently decided to clean and reuse a particular color unit on a press rather than using another unit that would not have worked as well. According to Watson, the lead press operator uses his own discretion in making choices about how to run a job and his choices depend on the press and how the different units of the press interact. Watson testified that while the second press operator gives input on technical decisions, it is the lead press operator who ultimately decides how things will be done.

Authority to Terminate and Discipline Employees. Watson testified that when he is at the facility, the lead press operators are supposed to come to him with any disciplinary issues. As indicated above, Watson has independent authority to discipline and terminate employees. Watson testified that while he has never terminated an employee based on the recommendation of a lead press operator, he had suspended an employee based “in large measure” on a lead press operator’s recommendation. In this regard, he testified that the week before to the hearing, Lead Press Operator Brian Makio

had recommended that Floor Helper Daniel Keaulii be terminated. The next day Keaulii failed to show up for work and Watson suspended him. At the time of the hearing, Keaulii had returned to work from his suspension. Watson testified that if he continued to receive negative reports about Keaulii from Makio, he would consider firing Keaulii. However, when asked why he had not terminated Keaulii as Makio had recommended, Watson testified, "It's not fair to Daniel. I feel I should give him a shot."

Watson also testified that in December 2003, when he was a lead press operator,<sup>33</sup> he had recommended to Plant Manager DeBone, who was Acting Sheet Fed Press Manager at the time, that Feeder Mark Hitchcock be terminated. According to Watson, he made this recommendation because Hitchcock was being disruptive and arguing with other press employees and talking behind their backs about how they should be doing their jobs. According to Watson, DeBone thereupon terminated Hitchcock. Although he testified at the hearing, DeBone did not testify regarding his reasons for terminating Hitchcock.

Watson testified that when he is not at the facility, the lead press operators have independent authority to send members of their crew home if they are not behaving or not being productive. In this regard, Watson testified that in 2003, when he was a lead press operator, he had sent Feeder Hale Freitas home from work when Freitas got aggravated, quit working, and became insubordinate. According to Watson, he did not consult with any one before taking this action. Watson testified that he felt that what he had done was

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<sup>33</sup> Watson was a lead press operator from April 2003 to October 2004.

part of the lead press operator's job and that if any lead press operator took a similar action, "depending on the circumstances," he would support him.

Lead Press Operator Hauger testified that he had authority to verbally admonish an employee who was not doing his job. In this regard, he testified that if his feeder was "slacking on the job," he would give him a headache," and that he had orally admonished his feeder twice in the six month period preceding the hearing but had not reported this to Watson. Hauger testified that when Jason Garcia was the feeder and could not keep the 640 press running, Hauger "got on [Garcia's] case big time." As discussed above, after Hauger complained to Watson about Garcia, Garcia was moved to another press. The record reflects that Hauger has never complained to Watson about any other employee.

Performance Evaluations. Sheet Fed Press Manager Watson prepares the evaluations for employees in the sheet fed department. Hauger testified that he has never filled out an evaluation for any employee and that he has never been asked to do so. The record contains evaluations for the lead operators and for other employees in the sheet fed department. There is nothing in any of the evaluations in the record showing the possession of supervisory authority by the lead operators.

Although Watson prepares the evaluations, he testified that he regularly asks for and considers the input of the lead press operators about other employees. According to Watson, he relies on the opinion of the lead press operators about their crew members because they know their crew better than he does, especially with regard to newer employees with whom he has not directly worked. At the time of the hearing, there were only two new employees who had not worked with Watson (i.e., Shawn Javier and General Anderson), and Watson had not yet prepared an evaluation for either employee.

According to Watson, he will “go with” the recommendations made by a few of the lead press operators. However, because other lead press operators may have “problems” with certain employees, he tries to “. . . get the true feeling of the situation before [he] makes a judgment call . . .” Watson did not identify which of the lead press operator’s opinions he would rely on in making decisions.

Watson testified regarding one example of an evaluation he had done on an employee that was affected by the input of the lead press operators. According to Watson, he did not believe that Jarren Alfeche was progressing as quickly as he should as a new second press operator and he was going to give Alfeche a “lower” rating, but Lead Press Operator Brian Makio told Watson that Alfeche could “do register, and he’s starting to do a little bit of color.” When Lead Press Operator Hauger confirmed Makio’s observations of Alfeche, Watson decided that he had just not been observing Alfeche at the right times to accurately judge Alfeche’s abilities and relied on the observations of Hauger and Makio in completing his evaluation of Alfeche.

Assignment of Work. According to Watson, the lead press operators make work assignments based on their own judgments when he is not present at the Employer’s facility. However, Watson was unable to recall any specific instances when this had occurred. He testified that if work is slow on a press, the lead press operators may direct members of their crew to work on another sheet fed press. With regard to the floor helper, Watson testified that he gives the floor helper a list of assigned tasks to perform. However, the lead press operators, second press operators and feeders may also direct the floor helper in his work because, according to Watson, the floor helper is “below” everyone else.

Lead Press Operator Hauger testified that while he does not direct the floor helper, he does direct the feeder who works with him on the press. According to Hauger, he and the feeder work together as a team on tasks that are largely unchanging. They each know what they are supposed to do and hardly speak to each other during the shift; each assisting the other and picking up the other's slack.

According to Watson, the lead press operators are responsible for keeping the press area clean and are supposed to direct the feeders to clean up during their shifts. In this regard, the record includes a November 4, 2004, memorandum written by Watson, addressed to the sheet fed press employees, stating that they needed to keep their area clean and that press operators were responsible for the enforcement of this policy. The memo concludes by stating: "As always any questions or conflicts please see me so we can come to a reasonable conclusion." Hauger affirmed that it was his responsibility to keep the press area clean and testified that he sweeps the floor as do other employees.

Vacation, Sick Leave, Time Off, Overtime, Break Time. Vacation leave is approved only by Sheet Fed Press Manager Watson. There is no evidence that the lead press operators have ever made effective recommendations in this regard. If employees are sick or cannot report to work, they must call Watson or the lead press operator if Watson is not available. Lead Press Operator Hauger testified that he has no authority to grant sick leave

If an employee needs to take time off for any reason, he asks permission from Watson when Watson is present. In this regard, Watson testified that because of the 24 hour a day, seven-day a week schedule, he tends to be more accommodating in granting requests for time off. According to Watson, because of low staffing, absent employees

are not usually replaced. If an employee leaves during the work day, Watson usually takes the absent employee's place in running the press. The lead press operators are not responsible for finding replacements for absent employees. If a replacement needs to be located, Watson, Plant Manager DeBone or Safety Supervisor/Quality Control Manager John Damas find the replacement. Lead Press Operator Hauger testified that if his feeder needs to leave work early because he is sick or for some other reason, he (Hauger) notifies Watson or DeBone who may pull an employee off another press to assist Hauger.

With regard to overtime, Watson testified that the standard policy is that the lead press operator and his crew may work up to 12 hours, if necessary, to get the work done. Watson testified that he does not want anyone to work more than 12 hours. According to Watson, the week before the hearing, Lead Press Operator John Whitten and his feeder had worked 13 hours and had not contacted Watson. The record does not disclose if Watson took any disciplinary action against Whitten for exceeding the 12 hour limit.

Lead Press Operator Hauger testified that Watson has told him it is permissible to work overtime if necessary in order to get the job done. However, Hauger testified that he does not work overtime or keep his crew overtime without first consulting with Watson or DeBone. According to Hauger, if he is working on the third shift, he just shuts down the press and goes home.

Watson testified that the lead press operators decide when their crews can take breaks or lunch, and that this decision is based on the status of the job they are working on. According to Watson, the crews generally eat their lunches at their presses and do not clock out.

Promotions. Watson testified that the sheet fed press lead operators make recommendations to promote employees. For example, he testified that Lead Press Operators Brian Makio and Ben Hauger had recommended that Second Press Operator Jantzen Damas become an apprentice to learn how to operate the Komori 420, and that Watson had decided he would start Damas as an apprentice to Lead Press Operator Joe Cambra on the 420 on the Monday after Watson testified at the hearing. Watson explained that it would take at least two years for Damas to become a lead operator and that eventually, Damas would be running the Komori 420 on his own. Watson testified that he personally favored promoting Damas based on his own knowledge of Damas's work from the time Watson worked on the presses. However, since he did not work with Damas every day, he had to rely on the judgments of Makio and Hauger that Damas could handle the job. The record contains no other example of a promotion decision affected by the input of a lead press operator.

Substitutions/Meetings. Watson testified that no one substitutes for him unless he is away from the facility for a substantial period of time and, if this occurs, Plant Manager DeBone substitutes for him. He does not hold regular staff meetings or meetings with the lead press operators.

Authority to Purchase. Sheet Fed Press Manager Watson testified that the lead press operators may purchase supplies and/or repairs within certain limits by submitting requests to Marketing Trainer Trusler, for approval and issuance of a purchase order.

Uniforms. The sheet fed press lead operators wear collared shirts. The other sheet fed press employees wear Employer T-shirts.



Pay Rates and Fringe Benefits. As noted above, the lead sheet fed press operators earn varying hourly rates depending on the press they operate; the rate for the operators of the Komori 640 is \$17.97 to \$22.46; for the Komori 440, the rate is \$16.32 to \$20.40; and for the Komori 420, it is \$14.69 to \$18.36. They receive the same fringe benefits as other press employees.

The Lead Web Press Operators. Web Press Manager Andre Kimo Dolor heads the web press department. Dolor testified that he works basically round-the-clock, seven days a week, especially with the installation of the new web press in progress, and that between 6 a.m. and 5 p.m., most of his focus is on keeping the web press running. According to Dolor, at times he also works on the web press assisting employees, filling in for absent employees, and making repairs. His office is located in the press area and he can observe web press the employees working from his office window.

A lead web press operator is assigned to each of the three shifts in the web press department. The lead web press operators report to Web Press Manager Dolor. Sean Sullivan is the lead web press operator on the first shift (from 6 a.m. to 2 p.m.), Gordon Ladao is the lead operator on the second shift (1:55 p.m. to 10 p.m.), and Henry Ginoza is the lead operator on the third shift (9:50 p.m. to 6 a.m.). The four-member web press crews (i.e., lead web press operator, second press operator, roll tender and jogger) generally rotate their shift together each month.

Hiring Authority. Dolor has been web press manager during the five years preceding the hearing. He testified that he has independent authority to hire for the web press department. In making hiring decisions, Dolor considers the recommendations of the lead web press operators. In this regard, Dolor testified that he had hired two

employees for the department, and one of them, Brandon Ragamar, who was formerly a temporary worker from Altres, had been recommended for hire by Lead Web Press Operator Sean Sullivan as well as by the second press operators. Dolor testified that when he receives a recommendation to hire someone, he personally interviews and observes the candidate to see how they work. According to Dolor, he makes hiring decisions based half on his own judgments and half on the recommendations of others. However, he testified that he had never hired any one based on the recommendations of Lead Web Press Operators Gordon Ladao or Henry Ginoza.

Authority to Promote. The record reflects that Dolor makes the final decisions with regard to the promotion of web press employees. Although Dolor testified that he relies only on the recommendations of his lead web press operators in making promotion decisions, he also testified that he always personally observes a candidate's work before promoting him. Thus, Dolor testified that he has the candidate train for the new job on the first shift when he (Dolor) is working so that he can observe him. For example, he testified that the leads had recommended Jogger Devin Chow for promotion to the position of roll tender, and at the time of the hearing, Dolor had assigned Chow to train on the first shift so that Dolor could observe Chow's work.

Authority to Discipline and Terminate Employees. The record reflects that Web Press Manager Dolor disciplines and recommends the termination of employees in the web press department. Terminations must be approved by the plant manager. Dolor testified that over a year before the hearing, he had terminated a feeder/jogger named Lewis because Lewis had had a confrontation with Second Press Operator Brian Fukutani that was reported to Dolor by Lead Web Press Operator Sullivan.

Dolor testified that he usually handles all of the written warnings that are issued to web press employees because the lead web press operators must “stay on the press” and “don’t have time for that.” According to Dolor, most disciplinary actions are oral reprimands and are not “as critical” as other forms of discipline. When misconduct occurs in Dolor’s absence, he takes “the story from the crew members and head pressman.” The record contains evidence of only one instance in the year preceding the hearing when oral and written warnings were issued in the web press department. In this regard, Dolor testified that CSRs had informed him of customer complaints about incorrect coloration on jobs run by Second Press Operator Brian Fukutani. According to Dolor, on this occasion, he gave oral and written warnings to both Fukutani and Lead Web Press Operator Sean Sullivan. Dolor explained that he took such action because job quality was the responsibility of both the lead and the other crew member handling a job, and if a crew member is disciplined, he usually also disciplines the lead operator.

Performance Evaluations. Web Press Manager Dolor testified that he prepares the annual evaluations for web press employees and that he may seek the input of the lead operator if he has not worked directly with the employee he is evaluating. The record does not reflect whether the lead web press operators make any recommendations for performance evaluation purposes.

Vacation, Leaving Work Early, Sick Leave, etc. Dolor testified that he must approve all vacation and time off requests. If Dolor is unavailable when an employee calls in about an absence, the employee notifies the lead web press operator who, in turn, notifies Dolor. Dolor testified that because of the demanding schedule of the web press operation, he usually accommodates all requests for time off. In this regard, the record

reflects that the web press operates continuously, 24 hours a day, seven days a week, and that all web press employees regularly work 12 hours a day, seven days a week. Web press employees must submit vacation request forms to take time off, even on the weekends.<sup>34</sup>

While the record shows that the lead web press operators are authorized to find replacements for absent employees, Dolor testified that he is usually the one who fills in for them. The record does not disclose how the leads find replacement employees; however, the record reflects that the Employer was using a temporary agency called Altres during the year preceding the hearing.

Overtime. Dolor testified that the lead web press operators are authorized to permit employees to work up to 12 hours a day to complete their work. Dolor testified that for health and safety reasons, the Employer tries not to have employees work over 14 hours a day. According to Dolor, the lead web press operators may independently decide to keep employees working beyond their regular shift, for example, in situations where an employee on the next shift does not show up for work. According to Dolor, “a lot of times, the only person that can make that judgment is the pressman, himself.” According to Dolor, lead web press operators can also call employees to report to work earlier than their usual start times. However, he testified that in practice, he usually makes such calls because the leads do not like calling other employees at home early in the morning and asking them to come to work.

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<sup>34</sup> The Employer treats all weekend work in web press as overtime work.

Substituting for Dolor. Dolor testified that he is usually away from the facility for only a week or less and on such occasions, he puts senior pressman and lead, Henry Ginoza, in charge of the web press operation. According to Dolor, Ginoza has the authority to approve vacations in his absence. However, the record contains no evidence of any instance where Ginoza has approved or disapproved vacation requests or exercised any other type of supervisory authority while substituting for Dolor.

Switching Shifts. Dolor testified that although it is “not a normal practice,” about once a month, a lead web press operator will allow an employee to switch shifts with another employee or allow a part-timer to substitute for them. According to Dolor, this usually happens during the summer months when graduations and family functions occur.

Authority Over Technical Decisions. As discussed above, the Employer’s press operations follow an established schedule that is prepared by the scheduler and reissued three times a day. Each web press also uses a checklist to ensure that paper, ink, fold types, etc are available. Part of the lead web press operator’s job is to input information on these matters (ink usage, spoilage, etc.) into the computer and to forward it to the accounting department for processing.

In general, the lead web press operators are responsible for the quality of the product coming off their presses. For example, each lead web press operator is responsible for the “make ready” of the press and ensuring that the color registration is correct before running a job. The lead operator is also responsible for a number of other technical matters affecting jobs. The second press operator assists the lead in making such technical decisions. The record contains several examples to illustrate the duties and authority of the lead web press operator with respect to the technical aspects of

running jobs on the web press. One example involves the lead web press operator's duty to work with the bindery supervisor to ensure that the spine width is correct before jobs are printed. If the spine width is incorrect, the lead web press operator is authorized to delay a run in order to confer with the bindery supervisor and correct the spine width. The lead web press operator also determines whether to cut an area out of the rubber blanket on the press to enable glue to adhere to the spine of a book when the material is processed in the bindery. However, in this regard, the record discloses that it is the bindery supervisor who generally decides whether to stop a press run in such cases because such a decision primarily affects the bindery operation. If bindery issues arise during the third shift, when the bindery is closed, the lead web press operator confers with the bindery supervisor from the second shift if he is still available or contacts the bindery manager at home in order to determine what action to take.

The record reflects that the Employer has a number of standing policies regarding how to deal with technical problems that arise on the web press. One policy is that if a matter can be resolved within two hours, the lead web press operator may handle it without consulting upper management. If the resolution of a problem will take longer than two hours, which could affect the press schedule for the day, the lead must consult with management before taking any action. This two-hour policy was established by the scheduler and the press and pre-press managers. The lead web press operators had no role in its formulation.

Another standing policy is that if an issue arises in the web press operation about whether glue will adhere to a project for mailing purposes, and the problem can be solved by making a hole in the rubber blanket on the web press, then that is the procedure to be

used rather than to risk having to re-run an entire print job. This is because cutting and replacing a blanket costs about \$100 and less than two hours of press time, while reprinting an entire job can cost thousands of dollars and many more hours of press time. Decision-making about this type of issue arises about once a week.

Customer complaints are handled by Dolor when he is available. When Dolor is not available, the lead web press operators on the second and third shifts have the authority to make minor adjustments to jobs in order to satisfy customers. For example, if a customer is unhappy with the color on a job, a lead web press operator can make slight alterations in the color. However, if a more substantial change in color is required, the lead web press operator might have to seek the assistance of the pre-press operation in order to have the electronic files manipulated. In such cases, the two-hour policy described above applies, and the leads must consult a manager if the change will require more than two hours.

The lead web press operator is also responsible for handling any contaminants or defects on pages being printed and any other technical press issues which could affect product quality. As indicated above, the lead operator is also responsible for communicating with the bindery about any problems which could affect that operation. The lead web press operator is also responsible for determining how much paper a job will require, including overages. However, the record reflects that such calculations are largely set forth on the job ticket and that the lead press operator's responsibility is generally limited to determining how many extra pages will be required to reach the level of quality sought by the customer.

Web Press Department Meetings. The record reflects that Web Press Manager Dolor does not hold regular meetings with his lead web press operators or regular departmental meetings. He does regularly communicate with the lead web press operators to find out what is happening on their shifts, and he meets with employees during shift changes when particular concerns arise, such as those involving job quality.

Analysis. As indicated above, the Employer contends that Pre-press Shift Foremen Pat Hotema, David Mellem and Cory Hamabata, Sheet Fed Press Lead Operators Brian Makio, Ben Hauger, Steven Costa, John Whitten, Kent Igarashi, Joe Cambra, and Winston Ferido, and Web Press Lead Operators Sean Sullivan, Gordon Ladao and Henry Ginoza are statutory supervisors and should be excluded from the unit. The Petitioner takes the contrary view. For the reasons discussed below, I find that the pre-press shift foremen, sheet fed press lead operators, and web press lead operators are not statutory supervisors and I shall include them in the unit.<sup>35</sup>

The term “supervisor” is defined in Section 2(11) of the Act as:

[A]ny individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances. or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

“To meet this definition, a person needs to possess only one of the specific criteria listed, or the authority to effectively recommend, so long as the performance of that function is not routine but requires the use of independent judgment.” *Nymed, Inc., d/b/a Ten Broeck*

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<sup>35</sup> As noted above, as I have found that bindery department and mailing department employees should be excluded from the unit, I find no need to address the supervisory status of the bindery shift supervisor and the mail room lead.



*Commons*, 320 NLRB 806, 809 (1996); *Somerset Welding & Steel*, 291 NLRB 913 (1988); *Chicago Metallic Corp.*, 273 NLRB 1677, 1689 (1985). Thus, the exercise of supervisory authority in a merely routine, clerical, perfunctory, or sporadic manner does not elevate an employee into the supervisory ranks, the test of which must be the significance of the judgment and directions. *Opelika Foundry*, 281 NLRB 897, 899 (1986); *Hydro Conduit Corp.*, 254 NLRB 433 (1981). Additionally, the existence of independent judgment alone will not suffice, for the decisive question is whether the employee has been found to use independent judgment with respect to the exercise of one or more of the specific duties listed in the Act. *North Shore Weeklies, Inc.*, 317 NLRB 1128 (1995). *Advanced Mining Group.*, 260 NLRB 486, 506-507 (1982). Moreover, in connection with the authority to recommend actions, Section 2(11) requires that the recommendations must be effective. *Tucson Gas & Electric Co.*, 241 NLRB 181, 182 (1979).

Whether an individual is a supervisor is to be determined in light of the individual's actual authority, responsibility, and relationship to management. See *Phillips v. Kennedy*, 542 F.2d 52, 55 (8th Cir. 1976). It is well settled that an employee cannot be transformed into a supervisor by the vesting of a title and the theoretical power to perform one or more of the functions enumerated in Section 2(11) of the Act. *Magnolia Manor Nursing Home*, 260 NLRB 377, 385 fn. 29 (1982). Rather, the Act requires "evidence of actual supervisory authority visibly demonstrated by tangible examples to establish the existence of such authority." *Oil Workers v. NLRB*, 445 F.2d 237, 243 (D.C. Cir. 1971). As the party seeking to exclude the foremen and leadmen from the coverage of the Act in this proceeding, the Employer has the burden of proving their supervisory

status. See, e.g., *S.S. Joachim & Anne Residence*, 314 NLRB 1191, 1194 (1994); *Tucson Gas & Electric Company*, 241 NLRB 181 (1979). In enacting Section 2(11), Congress emphasized its intention that only those persons vested with “genuine management prerogative” should be considered supervisors, and not “straw bosses, leadmen, set-up men and other minor supervisory employees. *Chicago Metallic Corporation*, 273 NLRB 1677, 1688 (1985). Thus, when making a determination regarding supervisory status, “the Board has a duty to employees to be alert and not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied employee rights which the Act is intended to protect.” *Chicago Metallic Corp.*, *supra* at 1689

The Pre-Press Shift Foremen.

The evidence discloses that Pre-press Shift Foremen Hotema, Mellem and Hamabata are highly experienced working foremen who spend all of their work time performing regular pre-press work. Each performs conventional plate making and proofing work during his entire shift.

Pre-press Manager Kondo handles all personnel matters for the 15 employees in the Pre-press department when he is present at the Employer’s facility and his work hours overlap both Hotema’s and Mellem’s shifts. Kondo is also on call by telephone 24 hours a day, seven days a week for any issues that arise. As indicated above, Third Shift Foreman Hamabata has been out on disability leave since May 2005, and at the time of the hearing, his date of return was uncertain and no one had replaced him on the third shift, a period when Kondo is generally not at the plant.

The schedule prepared by the scheduler dictates the prioritization of all jobs and the tasks required of employees in each department on a job and the schedule is updated

three times a day. The record reflects that the pre-press foremen do not have any input in the formulation of the schedule. Pre-press Manager Kondo is present to assign work and direct pre-press employees during both the first and second shifts. The mere fact that the pre-press shift foremen may provide working instructions to other employees on their shifts regarding the tasks to be performed in carrying out the work described on the schedule is not sufficient to establish that they are statutory supervisors. In this regard, the record reflects that the work of the pre-press foremen is largely the same unless an equipment breakdown occurs. Further, as indicated above, Pre-press Manager Kondo is on call 24 hours a day in case of such breakdowns. In sum, the evidence reveals that the type of decision-making the pre-press foremen engage in with regard to the assignment and direction of work is of a routine nature, typical of a nonsupervisory lead man, rather than that of a true supervisor within the meaning of Section 2(11). See e.g., *North Shore Weeklies*, 317 NLRB 1128 (1995).

With regard to hiring authority, the evidence does not establish that the pre-press shift foremen have any role in hiring or effectively recommending the hire of employees. Rather, it appears that Pre-press Manager Kondo makes such decisions. The evidence of an isolated occasion when Pre-press Foreman Hamabata recommended the hire of an imager on the third shift does not establish the possession or exercise of the authority to effectively recommend the hire of employees since Hamabata did not recommend that a specific person be hired but, rather, spoke only of the general need that someone be available to perform a specific type of work on the third shift.

With regard to the authority to evaluate employees, although the record reflects that two of the shift foremen (Mellem and Hamabata) filled out evaluations on other

employees in 2003 and 2004, the record contains no evidence to establish that these evaluations had any effect on the employees' evaluated. The record contains testimony that the evaluations were used for feedback purposes and for determining raises. However, the only evidence regarding the effect of evaluations on raises presented by the Employer was that managers were told at the time of the January or February 2005 pay increase that they could use the evaluations to assist them in determining the amounts of individual raises. The record contains no evidence that the evaluations had any effect on the raises given to employees. Thus, Pre-press Manager Kondo did not testify that he used or relied on the evaluations by the pre-press foremen in determining which employees would receive a wage increase and in what amount. Instead, he testified that he did not give a raise to three employees for reasons that had nothing to do with their evaluations. In sum, the mere fact that two of the pre-press shift foremen filled out evaluations in 2003 and 2004, in the absence of evidence showing that the evaluations had any effect on the employees' wages or working conditions, is not sufficient to establish that the prepress shift supervisors possess or exercise statutory supervisory authority. Furthermore, the record reflects that First Shift Foreman Hotema has never prepared an evaluation for an employee and that neither Mellem nor Hamabata have ever discussed the evaluations they prepared with employees or were aware of what happened to the evaluations after they gave them to their department manager. See *Northcrest Nursing Home*, 313 NLRB 491, 498 (1993).

With regard to the authority of the pre-press shift foremen to discipline employees, the record contains no evidence that they are directly involved in disciplinary decisions beyond reporting their observations of misconduct or errors on the job to Pre-

press Manager Kondo. Thus, while the record reflects that Pre-press Shift Foremen Mellem and Hamabata reported errors made by employee Socito to Pre-press Manager Kondo, there is no evidence that they recommended that disciplinary action be taken against him or that any disciplinary action was taken. The evidence that on a single isolated occasion, Pre-press Shift Foreman Hamabata recommended that employee Fawcett be suspended does not establish the possession or exercise of disciplinary authority, as Kondo did not follow the recommendation but, instead, chose to orally admonish Fawcett. Nor is the purported authority of the pre-press shift foremen to send home employees who are “combative,” “physically threatening,” or a “nuisance,” sufficient to establish their possession or exercise of statutory supervisory authority, as the record contains no evidence that they have been told they have the authority to do so or have exercised such authority.

With regard to the authority of the pre-press shift foremen to authorize overtime, the record reflects that Pre-press Manager Kondo makes the decision as to such matters whenever he is present at the Employer’s facility. Thus, Kondo decides who will work overtime at the end of a shift and who will work it on weekends. Although the record shows that in 2003, the Employer issued a memorandum stating that overtime had to be authorized by the foreman prior to being worked, as discussed more fully below, the Employer’s general policy is that overtime is to be directed if it is necessary to complete work scheduled to be completed that day. Indeed, the evidence reveals that while the Employer has no written overtime policy, it has a standing policy that employees are expected to work up to 12 hours a day in order to complete their work. Thus, the Employer’s policy appears to contemplate that overtime be worked on a regular basis. In

this regard, the record evidence demonstrates that the Employer is much more concerned with completing quality work in a timely manner than it is with whether overtime is incurred. The record also reveals that the Employer is generally understaffed and relies on its employees to regularly work overtime in order to get the work done. In these circumstances, it appears that the decision of the pre-press shift foremen to authorize overtime involves mainly a determination of whether there is work that has to be completed when the regular shift ends, which is not sufficient to establish their supervisory authority. Further, the record contains no evidence of any specific occasion where pre-press shift foremen have directed employees that they must work overtime. Rather, it appears that the foremen merely ask if employees are willing to work the overtime and if they refuse to do so, the foremen ask other employees or they work the overtime themselves.

Given the foregoing considerations, the evidence showing that the pre-press shift foremen initial/approve overtime hours for themselves and other employees for payroll purposes can reasonably be interpreted as more in the nature of a verification that such hours have actually been worked rather than a reflection of the shift foremens' exercise of discretion and independent judgment in pre-authorizing such overtime hours. In this regard, the record also reflects that Pre-press Manager Kondo regularly reviews overtime records and that in May 2005, he removed the shift foremen's ability to authorize overtime when he felt that too much overtime had been granted in a particular situation. Significantly, Kondo only notified the shift foremen that their authority to authorize overtime had been restored at the time the instant case went to hearing.

In view of the foregoing, and Pre-press Manager Kondo's daily hands-on involvement in managing the Employer's pre-press operation, I decline to rely on the alleged authority of the pre-press shift foremen to authorize overtime as a basis for establishing their status as statutory supervisors in the absence of evidence showing that they possess or exercise any other Section 2(11) authority.

Similarly, I find that the ability of the pre-press shift foremen, when Kondo is not present, to grant employees' requests to leave work early because they are sick, need time off for personal reasons, and when there is no more work to do does not establish that they possess or exercise statutory supervisory authority. Thus, the record reflects that because of the round-the-clock nature of its press and pre-press operations and the long hours employees must work on a regular basis, the Employer's policy is to normally accommodate such requests. Further, despite Pre-press Manager Kondo's general testimony to the contrary, there is no concrete evidence in the record to show that the pre-press shift foremen possess the authority to order an employee to stay at work who asserts that they are sick or who asks to leave work for some other reason. See *North Jersey Newspapers Company*, 322 NLRB 394 (1996). I further note that the pre-press shift foremen notify Kondo if an employee calls in sick or leaves work early and Kondo decides whether to find a replacement.

The mere fact that one of the pre-press shift foreman substitutes for Kondo when he is away from the facility is also not sufficient to establish their possession or exercise of supervisory authority. See *Id.*; *Hexacomb Corp.*, 313 NLRB 983, 984 (1994).

Lastly, the pre-press foremen's authority to handle jobs and to deal with technical problems that arise does not establish that they are statutory supervisors in the absence of

a connection between such authority and supervisory authority under Section 2(11) of the Act.

Based on the foregoing, and the record as whole, I find that Pre-press Shift Foremen Hotema, Mellem and Hamabata do not exercise independent judgment or responsibly direct employees in a manner or to a degree sufficient to establish them as supervisors with the meaning of Section 2(11) of the Act. Accordingly, they will be included in the unit.

The Sheet Fed Press Lead Operators. For the reasons addressed below, I find that Sheet Fed Press Lead Operators Brian Makio, Ben Hauger, Steven Costa, John Whitten, Kent Igarashi, Joe Cambra, and Winston Ferido are not statutory supervisors and include them in the unit.

The record reflects that Sheet Fed Press Lead Operators Makio, Hauger, Costa, Whitten, Igarashi, Cambra, and Ferido are highly skilled press operators with years of experience who work as leadmen and spend all of their work time operating their respective presses. Sheet Fed Press Manager Watson supervises the 16 employees in his department. His hours of work overlap the first and second shift and he is on call 24 hours a day, seven days a week. Like the managers of the pre-press and web press departments, Watson is a very hands-on manager and is heavily involved in the day-to-day operation of the sheet fed presses.

The record contains no evidence that the sheet fed press lead operators have any role in the decision to hire employees. Rather, it appears that Sheet Fed Press Manager Watson handles the hiring for the department. Moreover, Watson testified that no lead operator had made any hiring recommendation or been involved in hiring decisions since



he has been manger. With regard to the assignment and scheduling of work, the record shows that Watson schedules and assigns work to employees in the sheet fed press operation. Further, like the pre-press department discussed above, the work in the sheet fed press department is largely governed by a regularly updated schedule that the sheet fed press lead operators have no involvement in formulating. Sheet Fed Press Manager Watson is responsible for adjusting the schedule.

The only evidence in the record regarding the sheet fed press lead operators' authority to transfer employees involves the transfer of Feeder Garcia from the Komori 640 to the Komori 420 after Lead Operator Hauger told Watson that he could not work with Garcia because Garcia could not work fast enough to keep the Komori 640 running. As noted above, the Komori 640 is the Employer's fastest and most complicated press. With regard to this incident, I note that it involved the kind of reporting generally expected of a non-supervisory working lead man. I also note that it is isolated in nature and that there is no evidence that Garcia was disciplined or penalized in any way as a result of Hauger's complaint.

With regard to disciplinary authority, the record evidence does not support a finding that the sheet fed press lead operators possess or exercise the authority to discipline employees or to effectively recommend such action. At the outset, I note that there is no record evidence that the sheet fed press lead employees have been told that they possess this authority. I also note that Sheet Fed Press Manager Watson testified that he handles all disciplinary matters that arise when he is at the Employer's facility, and that the lead press operators are supposed to come to him with any disciplinary issues. I also note that that Watson is on call when he is not at the facility and that he

testified that he has never terminated an employee based on the recommendation of a lead press operator. Thus, while the record reflects that Sheet Fed Press Lead Operator Brian Makio recommended that Floor Helper Danniel Keaulii be terminated a week before the hearing, Sheet Fed Press Manager Watson did not follow Makio's recommendation but, instead, independently reviewed the situation and decided to suspend Keaulii because, in his judgment, it would not be "fair" to terminate him.

While Watson testified that in 2003, when he was acting as a lead man, he recommended that Plant Manager DeBone terminate an employee and the employee at issue was terminated, there is no evidence that Watson's recommendation in this regard effectively caused the termination. Similarly, Watson's testimony that in 2003, when he was a lead man, he independently decided to send a disruptive employee home from work, is not sufficient to establish the supervisory status of the current lead men. Thus, there is no evidence that any of the current leadmen have ever been told that they possess the authority to send an employee home for disciplinary reasons or that they ever done so.

While the record shows that the sheet fed press lead operators may orally admonish members of their respective crews, such evidence is not sufficient evidence to establish that they possess or exercise the authority of a statutory supervisor given the lack of any record evidence that such admonishments are documented, are part of an established progressive disciplinary system, or have supported further disciplinary action against an employee. See e.g., *North Jersey Newspapers Company, supra*; *Waverly-Cedar Falls Health Care*, 297 NLRB 390, 392 (1989).

With regard to authority to evaluate employees, the record discloses that Sheet Fed Press Manager Watson prepares the evaluations for the sheet fed employees. While

he may solicit input from the leads when preparing the evaluations, the record reflects that Watson relies only on the opinions of certain unnamed leads whom he trusts, discounts the opinions of other leads, and tries to get his own “true feeling” of the situation before he makes the final decision. Thus, while Watson may solicit input from the leads, he nevertheless exercises his own independent judgment in making a final decision. Furthermore, the fact that the sheet fed press lead operators report to Watson their observations of the work and abilities of other employees is nothing more than what would be expected of a nonsupervisory leadman. Finally, there is no showing that the recommendations of the leadmen have affected employees’ working conditions. In sum, the record evidence does not establish that the sheet fed press lead operators are statutory supervisors based on their possession of authority to evaluate other employees.<sup>36</sup>

With regard to the assignment of work, the record shows that the sheet fed lead operators give only routine assignments and directions to their crew members and that the prioritization of work and scheduling is governed by the schedule prepared by the scheduler, by Watson and other managers.

With regard to authority to authorize overtime, the record shows that the Employer’s policy is that the lead operators and their crew members are authorized to work up to 12 hours a day, if necessary, in order to complete work scheduled to be finished that day. The record also reflects that the Employer is generally understaffed and relies on its press employees to work overtime on a regular basis in order to complete the jobs that are scheduled. Sheet Fed Manager Watson controls overtime during the first

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<sup>36</sup> I further note that nothing contained in any of the evaluations in the record is supportive of a finding of the leads’ supervisory status.

and second shifts and for the weekends. Further, it appears that the only judgment made by the lead operators during the third shift in determining whether to have their crews work beyond their shift is whether there is work that must be completed on that shift. While the record shows that the lead operators initial employee timesheets with overtime hours worked for payroll purposes, given the Employer's 12-hour policy, this act appears nothing more than a verification that the hours were actually worked rather than an exercise of independent judgment regarding overtime. In addition, Watson reviews such payroll records.

With regard to vacations and time off, Manager Watson is the one who makes such decisions. If he is not available, and an employee calls in sick or leaves work early, the leads call Watson, who is responsible for finding a replacement. There is no evidence that the sheet fed press lead operators possess or have exercised the authority to authorize paid time off for any employees.

With regard to the authority of the lead operators to effectively recommend the promotion of employees, the record discloses only one isolated occasion where a lead operator recommended that an employee be allowed to train as an apprentice on the Komori 420 and Watson permitted the employee to do so. However, Watson testified that he had worked with this employee in the past and favored promoting him based on his own evaluation of the employee's work.

Finally, I note that Sheet Fed Press Lead Operators Joe Cambra and Winston Ferido work alone on the Komori 420 press during their respective shifts and have no crew members to supervise. Thus, other than exercising their technical judgment in

operating the Komori 420 press, there is no basis in the record to find that they possess or exercise the authority of a statutory supervisor.

In view of the foregoing, I find that the record evidence does not support a finding that Sheet Fed Press Lead Operators Brian Makio, Ben Hauger, Steven Costa, John Whitten, Kent Igarashi, Joe Cambra, and Winston Ferido exercise independent judgment or responsibly direct employees in a manner or to a degree sufficient to establish them as supervisors with the meaning of Section 2(11) of the Act. Accordingly, they will be included in the unit.

The Lead Web Press Operators. For the reasons discussed below, I find that Lead Web Press Operators Sean Sullivan, Gordon Ladao and Henry Ginoza are not statutory supervisors and include them in the unit.

The record reflects that like the pre-press shift foremen and the sheet fed press lead operators discussed above, Lead Web Press Operators Sean Sullivan, Gordon Ladao and Henry Ginoza are highly skilled working leadmen with many years of experience. They spend all of their work time operating the web press on their respective shifts with the help of a three-person crew, consisting of a second press operator, a roll tender and a jogger. Web Press Manager Dolor, who supervises the nine employees in this department, essentially works around the clock seven days a week, and is on call when he is not at the facility. Dolor spends most of his work time focused on the web press operation and has worked directly with most of the web press employees.

With regard to the authority to effectively recommend the hire and promotion of employees, the record shows that two of the three web press lead operators (Ladao and Ginoza) have never recommended that employees be hired or promoted. With regard to

Lead Web Press Operator Sullivan, the record disclosed only one instance where he recommended that Web Press Manager Dolor hire an employee and one instance where he recommended that an employee be promoted. While the employee he recommended for hire was in fact hired, the evidence does not disclose that the decision to hire was based on Sullivan's recommendation since the candidate he recommended for hire was a temporary worker from Altres who was working for the Employer, the candidate was also recommended for hire by the second press operator on Sullivan's web press, and web press manager Dolor personally observed and interviewed the candidate. With regard to the candidate Sullivan recommended for promotion, Jogger Devin Chow, the evidence record discloses that Chow was promoted to the position of roll tender only after Dolor observed Chow in training for the position. In this regard, I find it noteworthy that Dolor testified that he always personally observes and interviews candidates for hire or promotion and that he relies half on the opinion of others and half on his own judgment in making such decisions. In these circumstances, I find that the record evidence insufficient to establish that the Lead web press operators possess the authority to effectively recommend that employees be hired or promoted.

I also find that the record evidence does not establish that the lead web press operators possess or exercise the authority to discipline or terminate employees or to effectively recommend such actions. As with decisions to hire and promote employees, the record discloses that it is Web Press Manager Dolor who, after independently investigating incidents and consulting with the lead operators and other crew members, independently makes his own judgment about such matters. The reports or

recommendations of the lead web press operators are but one factor that Dolor considers in making his final determination.

With regard to overtime, taking time off and switching shifts, I find that the lead web press operators do not possess statutory supervisory authority in these areas for basically the same reasons discussed above with regard to pre-press shift foremen and the sheet fed press lead operators. Thus, the record reflects that Web Press Manager Dolor makes the decisions regarding these issues whenever he is present. With regard to overtime, since the Employer essentially expects its employees to work 12 hours or more a day on a regular basis, the duty of the lead web press operators and all other employees is to get the job done and not to delay the schedule. In these circumstances, the fact that the lead operators may keep their crews beyond the usual shift time in order to get work done appears to represent nothing more than a decision that there is work left to be done at the end of their shifts. Nor does the lead operators' ability to allow employees to leave work when they are ill or need personal time or when no work is left to be done establish their possession of statutory supervisory authority. In this regard, the record contains no evidence that the lead operators have the authority to order sick employees to remain at work. Further, with regard to time off for other reasons, Web Press Manager Dolor testified that because of the demanding 24 hour a day, seven day a week schedule of the web press, his policy is to accommodate such requests. In these circumstances, the lead operators' ability to allow employees to take time off when Dolor is unavailable does not establish that they exercise independent judgment in this area. With regard to Dolor's testimony that the lead operators occasionally allow employees to switch shifts or have other employees substitute for them on their shift, I note that the record does not contain

any specific instance when this has occurred and Dolor testified that this usually occurs once a month during the summer when graduations and family functions occur. Given the general nature of such testimony, the lack of specific examples, the sporadic nature of such situations, and Dolor's testimony that he accommodates time off type requests, I find that such evidence insufficient to establish that the lead operators exercise the independent judgment of a statutory supervisor.

With regard to evaluating and appraising employees, the record discloses that these tasks are performed by Web Press Manager Dolor. While Dolor may seek the input of the lead web press operator if he has not worked directly with the employee being evaluated, there is no evidence that a lead web press operator has ever given any input to Dolor that constituted an effective recommendation involving an evaluation.

Finally, I find that the lead operator's authority to make technical decisions in operating the press does not establish their possession or exercise of statutory supervisory authority. Rather, these decisions involve their technical judgment about running a job. Further, their decisions in this area are circumscribed by the presence of Web Press Manager Dolor during much of the work day; by the fact that Dolor is also on call to address technical issues that arise when he is absent from the facility; and by the Employer's standing policies regarding how various situations are to be handled. In sum, in the absence of evidence showing a connection between the exercise of their technical expertise and a Section 2(11) power, I do not find that the lead men are statutory supervisors based upon their exercise of such expertise.

In view of the foregoing, I find that as with the pre press shift foreman and the sheet fed press lead operators, the record evidence does not establish that Lead Web Press



Operators Sean Sullivan, Gordon Ladao and Henry Ginoza exercise independent judgment or responsibly direct employees in a manner or to a degree sufficient to establish them as supervisors with the meaning of Section 2(11) of the Act. Accordingly, they will be included in the unit.

Conclusion. Based on the foregoing findings, I hereby direct an election in the following unit of employees, which I find to be an appropriate unit for collective bargaining purposes:

All full-time and regular part-time pre-press shift foremen, pre-press operators/imagists, plate makers, plate makers/proofers, sheet fed press lead operators, sheet fed press second operators, sheet fed feeders, sheet fed floor helpers, lead web press operators, second web press operators, web press roll tenders and web press joggers employed by the Employer at its Honolulu, Hawaii facility; and excluding bindery employees, mailing employees, shipping employees, senior sales executives, sales executives, customer service representatives, maintenance employees, schedulers, production planners, marketing trainers, estimators, office clerical employees, all other employees, temporary employees, managerial employees, guards and supervisors as defined in the Act.

#### DIRECTION OF ELECTION<sup>37</sup>

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to issue subsequently, subject to the Board's Rules and Regulations. In this regard, Section 103.20(c) of the Board's Rules and Regulations, as interpreted by the Board, requires employers to notify the Regional Director at least five full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election

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<sup>37</sup> As indicated above, the following temporary employees may vote subject to challenge pursuant to the parties' stipulation: Devin Chow, Charles C. Anthony, Brandon M. Rangamar, and Jarrob Remmers. By agreement of the parties, all other temporary workers are excluded from the unit.

notice. Failure to do so *estops* employers from filing objections based on nonposting of the election notice. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls.

Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by **GRAPHIC COMMUNICATIONS UNION LOCAL 501-M, GRAPHIC COMMUNICATIONS CONFERENCE OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO.**

#### LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list containing the **full names and addresses** of all eligible voters which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969); and *North Macon*

*Health Care Facility*, 315 NLRB 359 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the names and addresses of all the eligible voters shall be filed by the Employer with undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the NLRB Subregion 37 Office, 300 Ala Moana Boulevard, Room 7-245, Post Office Box 50208, Honolulu, Hawaii 96850, on or before December 15, 2005. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

#### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570.

This request must be received by the Board in Washington by December 22, 2005.<sup>38</sup>

**DATED** at San Francisco, California, this 8<sup>th</sup> day of December, 2005.

/s/     ***Joseph P. Norelli***

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Joseph P. Norelli, Regional Director  
National Labor Relations Board  
Region 20  
901 Market Street, Suite 400  
San Francisco, CA 94103-1735

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<sup>38</sup> In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, DC. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: [www.nlr.gov](http://www.nlr.gov).